

— ASIA '92 —
**PERMANENT
PEOPLES'
TRIBUNAL**

FINDINGS AND JUDGEMENTS



THIRD SESSION ON INDUSTRIAL AND ENVIRONMENTAL HAZARDS
AND HUMAN RIGHTS : 19-24 OCTOBER, BHOPAL-BOMBAY [INDIA]

02298

COMMON...

47/1 St. Mark's Road, Bangalore - 560 001

THIS BOOK MUST BE RETURNED BY
THE DATE LAST STAMPED



FOREWORD

Toxic chemicals and potentially fatal technologies are now used at a level unprecedented in human history. As workers, consumers, or simply residents, we are all increasingly exposed to the life-threatening side effects of industrial growth. Nowhere is this more true than in those countries which are willing to trade life and limb for the promise of increased income. Recognising this systematic threat to human well-being, and also the need for a sober understanding of its causes and consequences, the Permanent Peoples' Tribunal agreed to convene a series of hearings on industrial and environmental hazards.

The Permanent Peoples' Tribunal held its third session on Industrial and Environmental Hazards and Human Rights on 19 - 24 October, 1992 in Bhopal and Bombay, India. Continuing the work already started in earlier sessions at New Haven (April 1991) and Bangkok (October 1991), the ten Judges listened to the testimony of people from all over Asia. The third session was held in Bhopal because it provided immediate access to thousands of aggrieved parties and because the city symbolises the destructive potential of industrial technology.

In keeping with its quasi-judicial function, the Tribunal addresses its Finding to governments and peoples' movements alike. The Judges stress that the deaths and injuries resulting from hazards are avoidable rather than inevitable, and should be treated as human rights violations demanding urgent redress. An appropriate response, the Tribunal concludes, involves both legal and non-legal initiatives, and must join the political mobilization of workers and communities with the technical expertise of scientists, engineers, and the medical profession.

It is hoped that this text will foster and support such a response wherever hazards occur.

Sd/)

(Sd/)

Justice K.M. Subhan
Chairperson of the Third Session

Michael R. Anderson
Amicus Curiae

02298

OH 110

COMMUNITY HEALTH CELL
326, V Main, I Block
Koramangala
Bangalore-560034
India

CONTENTS

I.	Background	
II.	Aims of this Third Session	
	Objectives	11
	Continuity with Past Sessions	11
	Evolving a Human Rights Approach to Hazards	13
III.	Facts and Findings of the Bhopal Case	
	Bare Facts	17
	Medical Treatment	17
	Economic Rehabilitation	18
	Environmental Rehabilitation	18
	Compensation	18
	Long Term Effects	19
	Outcome of Revision Petitions	20
	Fairness Hearing Denied	21
	Criminal Case	21
	Delays	21
	Commentary upon the use of Medical Evidence	22
IV.	Definitive Conclusions and Judgement on the Bhopal Case	
	Conclusions	25
	Judgement	26
V.	Findings and Conclusions on Other Cases	
	1. Agent Orange in Vietnam	31
	2. Benguet Corporation, Philippines	32
	3. Minamata and Niigata, Japan	34
	4. Asian Rare Earth, Malaysia	34
	5. Textile Workers in South Korea	36
	6. Occupational Hazards in Thailand	36
	7. Silicosis in an Indian Glass Factory	37
	8. Cipel-Marco Incident in Hong Kong	37
	9. Occupational Health Hazards in Taiwan	38
	10. Industrial Hazards in Guangdong Province, PRC	39
	11. Hazards in the Export Processing Zone, Sri Lanka	40
	12. Industry in South Texas	40

VI.	General Findings on Environmental and Industrial Hazards	
	Nuclear Technology Hazards	4
	Human Rights in an Age of High Risk Technology	4
	Small Scale Units	4
	Labour Rights and Hazards	4
	Legal Hazards and Revictimization	4
	Medical Dimensions	4
	Transnational Corporations	4
	Rights and Responsibilities	4

VII.	Proposals and Recommendations for Action	
	General Recommendations	4
	Recommendations to Governments	4
	Recommendations to the International Community	4
	Recommendations to Peoples' Organisations and Movements	4
	Towards an Agenda for the Fourth Session	4

BACKGROUND



Background

In December 1989 the Permanent Peoples' Tribunal agreed to accept a petition from the International Coalition for Justice in Bhopal complaining of human rights abuses arising from industrial and environmental hazards. This petition was subsequently supported by the International Network for Victims of Corporate and Government Abuse. The Tribunal declared the request to be admissible under Article 3 of the Statute of the Tribunal.

It was agreed that given the wide geographical distribution of complaints, and the high level of technical and doctrinal complexity involved, the Tribunal should receive evidence and deliberate over a span of four distinct sessions. The first session was held at Yale Law School, New Haven, Connecticut, USA, in April 1991. The second session was held in Bangkok, Thailand in October 1991. Following these, and in anticipation of the fourth and final session, the third session was convened in Bhopal, India, from 19 to 23 October, 1992.

In accordance with Article 6 of the Statute of the Tribunal, the following individuals were appointed by the Permanent Peoples' Tribunal to act as Judges for this session:

1. Mr. Ajit Roy (India)
Founder member of the Permanent Peoples' Tribunal and well-known author and journalist.
2. Prof. Andrea Giardina (Italy)
Professor of Political Science and International Law at the University of Rome.
3. Prof. A.R. Desai (India)
Former Head of the Department of Sociology at Bombay University, author of 42 books in English and Gujarati.
4. Mr. Augusto S. Sanchez (Philippines)
Chairman of the Philippine Conference for Human Rights, and former Minister for Labour and Employment.
5. Dr. Hettigamage Sriyananda (Sri Lanka)
Professor of Electrical Engineering in the Open University of Sri Lanka.
6. Mr. Kuo Chi-Jen (Taiwan)
Attorney, former Director of the Taiwanese Association for Workers' Rights, and current Chief of the Taipei County Labour Bureau.

Findings and Judgements of the Third Session of the PPT

7. Dr. M.M. Thomas (India)
Professor of Theology, former Chairman of the Central Committee of the World Council of Churches (1968-75), and former Governor of Nagaland.
8. Dr. Rosalie Bertell (Canada)
Distinguished mathematician, educationist and expert on public health, and current President of the International Institute of Concern for Public Health, Canada.
9. Dr. Syed Husin Ali (Malaysia)
Former Professor of Anthropology and Sociology at the University of Malaya, and current President of the Parti Rakyat Malaysia (Malaysian Peoples' Party).
10. Justice K.M. Subhan (Bangladesh)
Former Judge of the Supreme Court of Bangladesh, and current Chairman of the Bangladesh Human Rights Commission.

Given the highly technical nature of the issues and evidence, the Tribunal instituted a procedure of drawing upon the specialised expertise of individual distinguished in their knowledge and experience of industrial and environmental hazards and human rights. To this end, the following individuals agreed to act as an **Advisory Committee** to the Judges :

- | | | |
|-----|--------------------------------|---------------|
| 1. | Dr. Hoang Trong Quynh | - Vietnam |
| 2. | Dr. K. Zaki Hasan | - Pakistan |
| 3. | Mr. Park Seok-Woon | - Korea |
| 4. | Dr. Nicole Tilman | - Taiwan |
| 5. | Mrs. P. Mary Manel Abhayaratne | - Sri Lanka |
| 6. | Prof. Satish Dhawan | - India |
| 7. | Ms. Shabana Azmi | - India |
| 8. | Mr. Tani Yoichi | - Japan |
| 9. | Dr. Tan Ka Kheng | - Malaysia |
| 10. | Dr. Vandana Shiva | - India |
| 11. | Mr. Jose Mencia Molintas | - Philippines |
| 12. | Mr. Alamsyah Hamdani | - Indonesia |

Background

Additionally, the following individuals acted as **Technical Experts** :

- | | | |
|-----|---------------------------------------|---------------|
| 1. | Mr. Mihir Desai | - India |
| 2. | Mr. Pramode S. Mujumdar | - India |
| 3. | Dr. Murlidhar | - India |
| 4. | Dr. Veena | - India |
| 5. | Dr. Vu Tanh | - Vietnam |
| 6. | Dr. Yang Gil-Seong | - South Korea |
| 7. | Dr. Harada Masazumi | - Japan |
| 8. | Dr. June Margareth Magdalene Luhulima | - Indonesia |
| 9. | Dr. Dinesh Mohan | - India |
| 10. | Dr. Orapun Metadilogkul | - Thailand |
| 11. | Ms. Tsang Yuen Yi | - Hong Kong |

The following individuals acted as **Amici Curiae**:

- | | | |
|----|--|---------|
| 1. | Dr. Gianni Tognoni
(Secretary-General, Permanent Peoples' Tribunal, Rome) | - Italy |
| 2. | Mr. Michael Anderson | - UK |
| 3. | Prof. Upendra Baxi | - India |
| 4. | Mr. Ward Morehouse | - USA |

In accordance with Articles 14 and 15 of the Statute the following accused parties were notified of the sessions, sent copies of written testimony in which they were accused, and invited to participate in the proceedings either by sending a representative or by submitting a written statement:

1. Union Carbide Corporation, Union Carbide (India) Ltd,
Government of India, Government of Madhya Pradesh (India)
2. Benguet Corporation (Philippines)
3. Asian Rare Earth, Sendrian Berhad (Malaysia)
4. Wonjin Rayon Company Limited (South Korea)
5. Cipel Marco Fur Processing Co. Ltd.
6. Tai-Bang Electric Pvt. Ltd., Taiwan General Tool and Die Corporation (Taiwan)
7. Union Carbide Corpn., Formosa Plastics Corpn. (U.S.A.)

Findings and Judgements of the Third Session of the PPT

Two accused parties responded. One (The Ministry of Chemicals and Fertilizers on behalf of the Government of India) indicated it would send an observer who, however, never appeared. The other (Formosa Plastics, USA) submitted a written statement which was circulated to the members of the Tribunal along with the testimony of Diane Wilson accusing the company of creating environmental and industrial hazards and violating the human rights of the community surrounding its Point Comfort, Texas.

The Tribunal held public hearings at the **Gandhi Bhavan, Shyamala Hills Bhopal** and heard testimony from the following persons, representing the victims' organizations indicated.

ORAL AND WRITTEN TESTIMONIES

Persons who testified	Place/Country	Organisation
Ms. Rashida Bi	Bhopal, India	Bhopal Gas Pedit Mahila Stationery Karmachari Sangh
Ms. Krishna Srivastav	"	Bhopal Gas Peedit Mahila Congress
Mr. Abdul Jabbar Khan	"	Bhopal Gas Peedit Mahila Udyog Sangathan
Mr. Sadhana Karnik	"	Zahreeli Gas Kand Sangharsh Morcha
Ms. Shamshad Bi	"	"
Ms. Safia Bi	"	"
Ms. Fatima Bi	"	Nirashrit Pension Bhogi Sangharsh Morcha
Mr. T.R. Chouhan	"	Ex-employee, Union Carbide India Limited
Mr. Bhailal Motibhai Patel	Baroda, India	Ex-employee, Alembic Glass Industries Ltd.

Background

Mr. Eduard P. Mangile	Philippines	United Concerned Citizens of UCAB (UCCU)
Mr. Dunu Roy behalf of Wuh Ah Peng and Mr. Hiu-Sun Tai	Malaysia "	Perak Anti-Radio Active on Committee "
Mr. Lee Jeong-Jae	Korea	Councils for Wonjin Occupational Diseases
Mr. George Jayarathnam	Sri Lanka	Ex-employee, Eskimo Fashion Network
Mr. Sakamoto Teruki	Japan	Solidarity Network Asia & Minamata
Mr. Ng Man Kang	Hong Kong	Association for the rights of Industrial Accident Victims (ARIAV)
Ms. Mac Thi Hoa	Vietnam	10-80 Committee National Committee for Investigation of the Consequences of the Chemicals used during the Vietnam war
Dr. Zaki Hassan on behalf of Sheikh Abdul Rehman and Ibrar Hussain Shah	Pakistan "	Hattar Welfare Society "
Ms. Kaitaew Karun	Thailand	Ex-employee, Seagate Technology of Thailand
Ms. Prayoon Sriarun	Thailand	Ex-employee, Bangkok Textile Company
Mr. Chen Chi-Liang	Taiwan	Association for Victims of Occupational Accidents and Diseases — Ching-Jen Labor Health & Safety Service

Findings and Judgements of the Third Session of the PPT

Mr. Yau-Chung Chang	Taiwan	Association for Victims of Occupational Accidents and Diseases — Ching-Jen Labor Health & Safety Service
Mr. Ismail Effendi	Indonesia	Villagers of Tambon Baroh, North Sumatra

The Tribunal noted with regret that two witnesses from the Perak Anti-Radioactive Committee in Malaysia, Hew-Yoon Tat and Win Ah Pen, were unable to appear before the Tribunal because they were not given visas to enter India. For the same reason, Ms. Asma Jahangir, leading lawyer and human rights activist was unable to serve on the Panel of Judges for this session of the Tribunal.

WRITTEN TESTIMONIES

The Tribunal also considered a number of written testimonies, including the following :

Ms. Diane Wilson	Seadrift, Texas, USA	Calhoun County Resource Watch
Mr. Sujato Bhadra	Calcutta, India	Association for the Protection of Democratic Rights, Calcutta
Mr. Sunil Kumar Rajput	Bhopal, India	Children Against Carbide
Mr. Alok Pratap Singh	Bhopal, India	Zahreeli Gas Kand Sangharsh Morcha
Mr. N.D. Jayaprakash	Delhi, India	Bhopal Gas Peedit Sangharsh Sahayog Samiti
Mr. Indranil Bhattacharya	West Bengal, India	Local Popular Peasant Front, Sundarbans, West Bengal
Mr. J. Gathia & Ms. Savita Bajpai	New Delhi, India	Centre for Concern for Child Labour, New Delhi
Bulu Imam	Bihar, India	Indian National Trust for Art & Cultural Heritage, Hazaribagh, Bihar, India
Chitaranjan	Puri, India	Chilika Bachao Andolan Panaspada, Puri, India

Background

Shashikant Pareekh

Bhopal, India

Employee of Union Carbide
(India) Ltd.

The following Bhopal gas victims responded to newspaper advertisements requesting those willing to offer their personal testimony to notify the Tribunal Secretariat :

Usha Saluja

Pravin Kumar Tiwari

Mohan Parlani

M.R. Soni

Rakesh Manra

Rajendra Kushwaha, Santani Kushwaha

Mitthu Lal Srivastav, Smt. Rashmi Srivastava, Diwakar Srivastava

Mohammad Yhaya

Habib Ahmad Alias Banne

Ishwar Kushwaha Gopilal, Ashok Kushwaha

Mr. Lalwani, Rustam Khan Ka Ahata

OTHER SUBMISSIONS AND DOCUMENTS

Response from Susan Wong, Formosa Plastics (USA) Inc. to Testimony submitted by Diane Wilson, Calhoun County Resource Watch and Communities concerned about Corporations.

Letter with 4 Annexures from Prof. Heeresh Chandra, Retired Director of the Department of Forensic Medicine and Toxicology, Gandhi Medical College, Bhopal, 21 October, 1992.

Written response from T.R. Chouhan to questions raised by Dr. Rosalie Bertell, 19 October, 1992.

Written response from Abdul Jabbar Khan to questions raised by the Panel of Judges, 19 October, 1992.

Submission from S. Dhara, Environmental consultant and occupational safety specialist, New Delhi, 19 October, 1992.

Findings and Judgements of the Third Session of the PPT

Rajiv Lochan, "Health Damage Due to Bhopal Gas Disaster: Review of Medical Research", *Economic and Political Weekly*, 25 May, 1991, pp. 1322-1323.

Indian Council of Medical Research, *Annual Report of Bhopal Gas Disaster, Research Centre*, 1990.

Government of India, Ministry of Chemical & Fertilizers, Letter to the Welfare Commissioner, Bhopal Gas Victims, on "Guidelines and Quantum of Compensation Payable for Each Type of Injury or Loss", 13 April, 1992.

Union Carbide Corporation, Operation/Safety Survey of Bhopal Plant (Tyson Report), May 1982.

Union Carbide Corporation, Bhopal MIC Team Investigation Report, March 1985.

Bhopal Group for Information and Action, *Compensation Disbursement: Problems and Possibilities*, (Bhopal, BGIA) January, 1991.

T. Narayan, "The Health Impact of the Bhopal Disaster: An Epidemiological Perspective", *Economic and Political Weekly*, 18 August, 1990.

Video Presentation by the Hong Kong Trade Union Education Centre on industrial hazards in the Guangdong province of the Peoples Republic of China.

T. Jones (Action for Safety and Health, Dublin, Ireland), An Alliance of State and Capital (both Multinational and Local) for Development and Against the People.

Dr. Thelma Narayan, Aspects of Community Health in Relation to Industrial Hazards.

Dr.C. Sathyamala, Dr. Nishith Vohra, K. Satish, *Against All Odds: Continuing effects of the Toxic Gases on the Health Status of the Surviving Population in Bhopal*.

Prof. Satish Dhawan, A Suggestion to the Panel of Judges.

Dr. Dinesh Mohan, Comments for Judges and Experts.

Submission by the Occupational Health and Safety Centre, Bombay.

David Dembo, Clarence Dias, Ratna Kapur, Mark Williams, & Ward Morehouse, *Charters of Rights of Victims, Workers, and Communities*.

Submission by Michael R. Anderson, Amicus Curiae.

Background

Submission by Dr. S.K. Chatterjee, Centre for Improvement of Quality of Working Life, Bombay.

Submission by Madhusudan G. Rao, Environmental Engineer, Bombay.

Submission on Asbestosis and Asbestos-Related Illnesses in Thailand, Orapun Metadilogkul, M.D.

Submission by Satinath Sarangi, Bhopal Group for Information and Action.

Submission on Industrial and Environmental Hazards and Human Rights in Japan by Masazumi Harada.

Submission by Acmad Santosa, Yasan Lembaga Bantuan Hukum Indonesia (Indonesian Legal Aid Foundation).

Cordillera Resource Center for Indigenous Peoples' Rights, *Special Report on the Antamok Gold Project* (Philippines).

S.R. Kamat, *et al.*, "Sequential Respiratory, Psychologic, and Immunologic Studies in Relation to Methyl Isocyanate Exposure over Two Years with Model Development" *Environmental Health Perspectives*, vol 97, 1992.

Noting the very large number of international legal instruments considered at the second session of the Tribunal in April 1991, the Tribunal gave consideration to the following :

- Charter of the United Nations, 1945.
- Universal Declaration of Human Rights, 1948.
- International Covenant on Civil and Political Rights, 1966.
- International Covenant on Economic, Social, and Cultural Rights, 1966.
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979.
- Proclamation of Tehran, 1968.
- Declaration on Social Progress and Development, 1969.
- Declaration on the Right to Development, 1986.

Findings and Judgements of the Third Session of the PPT

- ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, 1989.
- The Universal Declaration of the Rights of Peoples (Algiers, 1976).
- The Business Charter for Sustainable Development (International Chambers of Commerce, adopted 27 November, 1990).
- International Labour Organisation, Code of Practice on the Prevention of Major Industrial Accidents (1991).
- Second International Water Tribunal, Verdict (February 1992).

AIMS OF THIS THIRD SESSION



Aims of this Third Session

The aims of this session included :

- To conclude the examination of representative cases of industrial and environmental hazards;
- To follow up the cases considered in previous sessions, especially that of Bhopal;
- To draw upon extensive medical and technical expertise necessary to understand the testimonies more fully;
- To identify common mechanisms in the causation and effects of hazards;
- To further evolve an approach to industrial and environmental hazards, more specifically linked to human and peoples' rights, as a contribution to the fourth and final session.

CONTINUITY WITH PAST SESSIONS

Working conditions and environmental hazards have been repeatedly considered in previous sessions of the Permanent Peoples' Tribunal (PPT) as an important component of the violation of fundamental human and peoples' rights. Recalling the different contexts and issues which the Tribunal has considered in past sessions serves to highlight the continuity of the Tribunal's concern in this area, and places industrial and environmental hazards in a broader doctrinal framework, permitting a more comprehensive analysis. Reference should be made specifically to the following verdicts :

Verdict on the IMF and World Bank Policies (Berlin, 1988).

There is a direct relationship between the mechanisms and policies of international financial agencies and the worsening of working and environmental conditions of the areas most compliant to the models of development rigidly based on market criteria. As purely economic indicators drive decision making, constitutional rights and basic entitlements, as well as the principle of international comity, are subjugated to so-called "economic laws".

Verdict on Brazilian Amazonia (Paris, 1990).

The massive violation of the fundamental rights of indigenous peoples

Findings and Judgements of the Third Session of the PPT

(with the scale and characteristics of genocide) is the precondition for, and the product of, the destruction and degradation of the Amazonian rivers and forests. There is a general tendency to acknowledge the environmental threat to the world, but to dissociate it from the more direct and dramatic impact on the life of peoples.

Verdict on Impunity for Crimes Against Humanity (Bogota, 1991).

The Tribunal heard evidence of widespread and systematic human rights abuses perpetrated by individuals who could act with impunity under domestic law. The coexistence of dictatorship and democracy is made possible by neo-liberal models of development which require the impunity of individuals involved in repressive practices and dirty wars, as they are also the controllers of the financial sector and therefore privileged partners in an international relationship. This further extends social degradation and corrupts community and societal life, with the exclusion of the majority of the populations from political participation and the denial of the rights to nutrition, health, and education, which are the concrete expression of the fundamental right to a human life.

Special Session on the Conquest of America and International Law (Padua-Venice, 1992).

While representing a critically important and irreversible step forward, the present system of international relations based on the UN Charter is clearly insufficient to provide protection and promotion of the fundamental rights of peoples. The system is being openly distorted to become a tool to re-legitimize the conduct of war. Under this regime, the economic, social and cultural well being of the 80% of humanity under the pressure of structural adjustments (which serve the other 20%), are deteriorating, putting further stress on human and physical environments. International law, which was born as the justification and legitimation of the Conquest of America in 1492, in the name of the right to commerce for a small group of states, has acted against the rights of peoples, and must face the challenge of democratising its institutions and broadening the base of its 'cognitive' authority to the domain of economic relationships, where the new wars are waged and peoples rights denied or violated.

There is no doubt that the issues presented to the present session on Industrial and Environmental Hazards occupy a priority position in a larger perspective.

Aims of this Third Session

From the conclusions drawn at the Yale and Bangkok hearings, it is absolutely clear that victims of industrial and environmental hazards share common demands. Put in simple terms, *each* victim has made three assertions:

- i) *I do not want to be a victim*, and all steps should be taken to guard against my victimisation;
- ii) *If I am a victim, I want all available help*, and expect government, industry, and community to come to my aid;
- iii) *I do not want to be revictimised* by governments, companies, courts, or the medical and legal professions.

The demands are straightforward. One of the purposes of this Tribunal is to elaborate them into a new peoples' jurisprudence.

EVOLVING A HUMAN RIGHTS APPROACH TO HAZARDS

The last 50 years have witnessed an escalation in global pollution with nuclear fallout and toxic chemical waste. This has led to serious problems for workers and threats to the general public. Simultaneously and perhaps because of these threats, workers and the public have awakened to a new awareness of their human right to health and life as well as their sacred trust to pass on an intact life support system and gene pool to future generations.

The Permanent Peoples' Tribunal recognises that though the police power of the state has traditionally been identified as the principal vehicle for violating human rights, many of the most pervasive human rights violations arise as the consequence of institutions and social processes which are not traditionally subject to human rights scrutiny. Human rights are routinely violated by private individuals, companies, and organisations. In both, the workplace and the marketplace, stronger individuals exercise partial or absolute power over the weaker sections of society, frequently resulting in the violation of the most fundamental human rights and freedoms, including the rights to association, health, and even life itself. Moreover, these violations are often motivated and facilitated by ideologies of economic development, patterns of industrial and bureaucratic organisation, and existing legal structures. In these fields, there is ample evidence of human rights violations, but they are seldom recognised as such. The deaths, indignities, and suffering among the affected are frequently

Findings and Judgements of the Third Session of the PPT

dismissed as accidents, statistical inevitabilities or the natural costs of development.

The Tribunal rejects such euphemisms. A principal objective in the session on industrial and environmental hazards is to conceive of these issues afresh, to arrive at a new conceptual framework which will reflect the outrage and protest expressed by those who have suffered from such hazards. Deaths, injuries, and other indignities cannot be dismissed, no matter what degree of economic growth or industrial strength they may accompany. *The Tribunal regards the anti-humanitarian effects of industrial and environmental hazards not as an unavoidable part of the existing industrial system, but rather as a pervasive and organised violation of the most fundamental rights of humanity.* Foremost among these are the rights to life, health, expression, association, and access to justice.

In the previous two sessions on industrial and environmental hazards, ample evidence was presented of widespread human suffering and death as a result of hazardous activities. If suffering is re-imagined in terms of human rights abuses, it becomes possible to affirm the validity of victim protest, to condemn the systems which justify particular forms of suffering, and to conceive of systems for preventing and mitigating such abuses. From a human rights perspective, the accidents, illnesses, and deaths frequently associated with industrialisation are not normal events but problematic ones; not inevitable but avoidable, not endemic and therefore banal, but extraordinary and thereby outrageous.

Traditional human rights law is not inclined to address industrial and environmental hazards. Human rights standards have too often been narrowly interpreted to exclude from their purview the anti-humanitarian effects of industrialisation and environmental damage. Yet the juristic postulates for our approach are clear. It is of little difference if the death which comes to the sleeping victim in the middle of the night is caused by a politically-motivated death squad or by a cloud of poisonous gas. In either case, the right to life of an innocent person is violated in an inexcusable manner. In either case, the basic moral impulse of humanity is brutally transgressed, and in either case the international community has profound interest in taking steps to ameliorate the effects of the violation and prevent its repetition.

Even within the field of existing international law, the Human Rights Committee of the International Covenant on Civil and Political Rights has not held that the state obligation to protect the right to life should not be understood in

Aims of this Third Session

restrictive manner, and requires that states adopt positive measures, including all possible measures to increase life expectancy. It is widely considered the proper business of the state to protect individuals from physical harm, and to ensure that the prevailing socio-economic and working conditions facilitate the well being of citizens. Despite these nascent trends, legal remedies for the suffering caused by industrial and environmental hazards remain deplorably deficient.

In its multiple sessions on industrial and environmental hazards, the Tribunal has sought to receive testimony from individuals coming from diverse geographical regions, belonging to a wide spectrum of social classes, and adhering to different systems of belief. And yet these individuals and communities belong to a unified people, not marked by distinctions of language, religion, or history, but strongly linked by the common experience of exposure to industrial and environmental hazards. Vulnerable communities share with workers a set of common circumstances, a shared identity based on victimisation and resistance, and similar objectives expressed through solidarity in struggle. That corporations and governments frequently endeavour to manipulate petty differences to tear asunder this fundamental bond is testimony to the potential strength of this solidarity. This 'people' is expanding in size as industrialisation intensifies and spreads to every corner of our shared habitat. Industrial and environmental hazards respect no national frontiers or ideological boundaries: all citizens of the world are potentially exposed to such hazards.

Unlike previous sessions of the Tribunal, the sessions on Industrial and Environmental Hazards have been forced to consider evidence of a highly technical nature. Industrial and environmental hazards cannot be appreciated fully without some reference to engineering, clinical medicine, and epidemiology. For too long these specialist knowledges have excluded lay people from decision-making. The widespread mobilization of peoples' groups against such hazards is an attempt to recapture the right to participate in decision making. So too, the Tribunal has resolved, in an attempt to fill a gap in the international juridical order, to provide a forum for linking technical data with peoples' rights.

This effort has raised difficulties. Much of the evidence demands careful examination, and in many instances, the necessary studies have simply not been conducted. Nevertheless, the Tribunal has made every effort to interrogate the available information with care, drawing upon the assistance of the Advisory Committee and Technical Experts.

Findings and Judgements of the Third Session of the PPT

According to its predefined terms of reference, the Tribunal normally selects and examines individual cases as indicative of the larger problem before the Tribunal, although it may reach preliminary conclusions about some cases based on the evidence presented to it. In the case of Bhopal, however, a decision has been taken to pronounce a definitive finding, both because of the overwhelming quantity of evidence available and because of the historic nature of the tragedy as the world's worst industrial disaster.

Facts and Findings of the Bhopal Case

BARE FACTS

The facts of the Bhopal case are widely known. Following a leak of gas from the Union Carbide plant on 2-3 December, 1984, thousands of people died, and hundreds of thousands were injured or exposed. The subsequent litigation was slow and frustrating: the US courts refused to hear the case, and after much procrastination the Indian Supreme Court affirmed a negotiated settlement for \$470 million in February 1989. That order was reaffirmed in October 1991, and though criminal charges remain outstanding, the principal narrative remains that of the victims' struggle.

MEDICAL TREATMENT

According to epidemiological studies carried out by the Indian Council of Medical Research (ICMR), a government research institute, the total estimated exposed population in 1984 was 5,21,262. It is alleged that the poisonous gases have caused damage to almost every system of the body due to which close to 2,00,000 continue to suffer acutely and over 3,00,000 suffer mildly from different symptoms even today. It has also been indicated, in studies sponsored by the government, that children born to gas-exposed women suffer disproportionately from physical and mental retardation. Despite this, the only treatment available to the victims is administration of symptomatic drugs which offer only temporary relief.

Medical researchers and doctors in government hospitals have abandoned the search for a proper line of treatment, even before it has begun. The inadequacies of the drug-centered hospital-based medical care include the prescription of unnecessary and hazardous drugs. While hospitals are important, neighbourhood clinics are often better able to deliver primary health care and routine support, including essential information, regular monitoring, and physiotherapy. Victim testimony has highlighted the irrelevance of building more hospitals and has sought the creation of an independent medical commission on Bhopal.

Perhaps most disturbing of all is the clear absence of a systematic medical strategy for the purposes of assessing injury, providing primary and secondary medical care, and co-ordinating research.

ECONOMIC REHABILITATION

A majority of the people exposed to the toxic gases earned their livelihood through physical labour prior to the disaster. The physical and mental problems caused by the gases led to substantial incapacitation among such a population with consequent reduction in their earnings. An estimated population of 50,000 is in need to gainful employment in accordance with their reduced work capacity. As against this, only 2,500 women gas victims had been provided sewing jobs in government rehabilitation centres. Since July 1992, even the rehabilitation centres have been closed down by the state government.

The government's emphasis, in addressing the problem, has been on distributing dole payments. The administration of monetary relief is riddled with corruption, arbitrariness and bureaucratic apathy. The failure to provide proper economic rehabilitation makes the people dependent on government doles and militates against the victims' right to a dignified life.

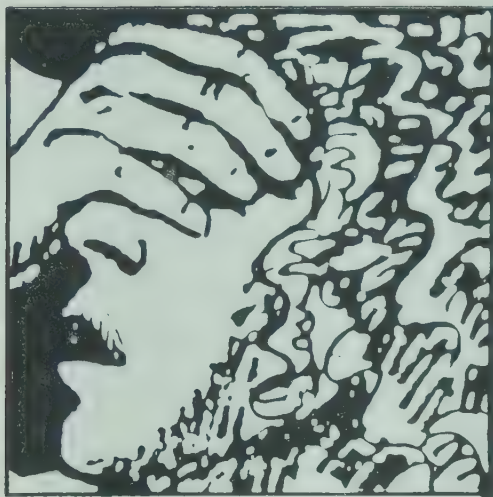
ENVIRONMENTAL REHABILITATION

The continuing sickness of the Bhopal people and particularly the damage caused to their immune system has increased the general vulnerability to infection and necessitates the provision of hygienic living and safe working conditions. Despite repeated assurances, the government has not provided properly constructed houses, clean drinking water and garbage disposal systems in the gas-affected communities. Preliminary analysis of soil samples and ground water from communities near the Carbide factory by the Citizen's Environmental Laboratory have indicated their contamination by at least seven different kinds of hazardous chemicals including two carcinogens. People exposed to MIC are more sensitive to smoke and other air pollutants, so air pollution control is particularly important in Bhopal.

COMPENSATION

The total compensation paid by Union Carbide is inadequate for long term medical care and rehabilitation of the victims. The government does not have a complete list of victims, and it is estimated that as many as 1,00,000 victims (who are residents of the 36 municipal wards, officially declared to be gas-affected) have not been registered by government officials. The evaluation of injuries

**FACTS
AND
FINDINGS
OF THE
BHOPAL CASE**



Facts and Findings of the Bhopal Case

the victims done by the government is far from complete, since even according to government figures 45% of claimants have not been medically examined. Medical examinations carried out on the rest of the claimants have been hasty, poorly documented, and subject to corrupt practices. According to the Directorate of Claims, over 90% of the victim-claimants have been categorized as having suffered only temporary injuries or no injuries at all. Such figures are sharply contradicted by medical studies on Bhopal, including those carried out by government institutions. The payment of compensation according to the government scheme will lead to wrongful denial of compensation to a majority of the victims. Over 8,000 death claims have been rejected by the government-appointed scrutinising committee without offering any reasons.

As per the Supreme Court's final orders, claims are being adjudicated through Claims Courts. With roughly 2,000 cases disposed of over a period of 8 months, the Claims Courts are likely to require 10 years or more to hear all the claims. As outlined by the government, in case a victim appeals against the compensation awarded to her, she would not be paid anything until the case is disposed of in the appellate court. Also, an appeal would only be considered if it is filed within one month of the announcement of the award. While going to the appeal court, the victim will be required to deposit a court fee which would be returned to her in case the appeal goes in her favour and would be forfeited if she loses the case. The Tribunal fears that disbursement of compensation will be yet another disaster for the victims of Bhopal.

Organisations of gas victims have proposed an alternative scheme for disbursement of compensation. The proposed scheme seeks to minimise wrongful denial, delay, harassment and corruption and calls for a broad definition of a gas-affected person. It recommends payment of a final sum to all residents of the 36 wards (declared to be gas-affected) after conducting an effective screening exercise. The proposed scheme obviates the need for each of the over 5,00,000 claimants to present themselves before the Claims Courts and suggests specific roles for the Deputy Claims Commissioners. This recommendation demands serious consideration by concerned government officials.

LONG TERM EFFECTS

Victim groups contend that in toxic actions, where the latency period for the manifestations of the effects of the exposure is unpredictable, it is necessary to

Findings and Judgements of the Third Session of the PPT

have a 're-opener' clause, as in the very nature of toxic injuries the latency-period for the manifestation of exposure is unpredictable. Any structural settlement should contemplate and provide for the baneful contingencies of the future.

None other than the UCC counsel, Mr. Fali Nariman, has concurred with the view that the effects of MIC are unpredictable. To substantiate his point Mr. Nariman referred to the following passage of an ICMR report: *"Based on clinical experience gained so far, it is believed that many of them [i.e. victims] would require specialized medicare for several years since MIC is an extremely reactive substance, the possibility of the exposed population developing hitherto unsuspected complications in the future cannot be ruled out"*.

Noting the above stand of UCC, the Supreme Court of India observed: *"What is, however, implicit in the stand of the UCC is the admission that exposure to MIC has such grim application for the future; but UCC urges that the Union of India must be deemed to have put all these into the scales at the time it settled the claim for 470 million US dollars."*

So the controversy is not whether those exposed to MIC, a lethal toxic poison, might develop hitherto unsuspected complications but, whether the Government of India had ever taken this aspect seriously into consideration at the time of arriving at the settlement. The contention of the victim-groups is that the settlement did not envisage the possibilities of delayed manifestations or aggravation of toxic morbidity in the exposed population. This aspect, therefore, must be taken care of in two ways: first by making adequate financial provision for medical surveillance costs for the exposed but still latent population, and second, by providing a 're-opener' clause to allow for compensation in cases of unforeseen or as yet unmanifested injuries.

OUTCOME OF THE REVISION PETITIONS

In its ruling on the revision petitions, on 3rd October, 1991, the Supreme Court upheld the validity of the Bhopal Settlement while revoking criminal immunity granted to UCC. However, despite apprehending that there could be a shortfall in the settlement amount, the Court absolved Union Carbide Corporation of any further liabilities and, instead, decided to pass on the liability for any shortfall both at present and in future, to the Union of India.

Facts and Findings of the Bhopal Case

FAIRNESS HEARING DENIED

Moreover, Justice Misra has quite candidly admitted that the merits of the case have not been examined because such a process, according to his interpretation, is too tedious and time consuming. Justice Misra has gone on to add that considered justice is a luxury far beyond the reach of the likes of Bhopal gas victims and is something that they should not aspire for. To justify his position, Justice Misra, quoting from an earlier judgment, said: "*Admirable though it [considered justice] may be, it is at once slow and costly. It is a finished product of great beauty, but entails an immense sacrifice of time, money and talent. This beautiful system is frequently a luxury; it tends to give a high quality of justice only when, for one reason or the other, parties can surmount the substantial barriers which it erects to most people and to many types of claims*". This approach, which endorses an inferior quality of justice is a clear violation of Article 32 of the Indian Constitution as well as the right to adequate legal remedy guaranteed under international human rights instruments.

CRIMINAL CASE

The Central Bureau of Investigations (CBI), which was investigating the criminal case, was barred from probing the case any further after the settlement order of 14/15 February, 1989 had granted UCC immunity from criminal prosecution. The Court finally revoked the immunity on 3rd October, 1991, and investigations have begun afresh into the criminal case. However, a study to compare the designs, including safety systems, of the two pesticide plants of UCC — the one in Bhopal (now closed) with its counterpart in West Virginia, U.S.A. — has not been undertaken as yet. Nor has the Government begun extradition proceedings against the then UCC Chief, Warren Anderson, against whom a non-bailable arrest warrant has been pending since 27th March, 1992.

DELAYS

The eight years since the gas leak have seen neither (a) the development of fair and non-invasive criteria for identifying gas-affected people, nor (b) a satisfactory resolution of the process for distributing compensation. The lengthy delays compound the difficulty of finding solutions and constantly revictimise the affected. This suggests an urgency to reach a fair and workable solution for Bhopal compensation.

CH/10

02298

COMMENTARY UPON THE USE OF MEDICAL EVIDENCE

The role of medical information in Bhopal is an instructive example for technical professions in other industrial and environmental hazards. Health consequences are one of the most immediately visible, and often directly measurable, effects of such hazards. Medical investigations, including both clinical case studies and epidemiological work, play therefore an important role both with respect to acute and long term interventions, and may have an enormous impact on evaluating damages and assessing levels of compensation. The Bhopal case is a comprehensive and dramatically negative example of the way in which the provision of medical services, when linked with other institutional components of the disaster complex, contributed to the violation of people's fundamental rights.

It is widely recognised that disaster medicine is a young science, only recently organised as a distinct discipline. Now is the time to make a crucial intervention in the discipline as it is forming. There are at least two essential preconditions for medical due process. First, the procedures employed must provide absolute transparency so that they may be replicated and understood by the wider community and secondly, rules should be adopted for the strict coordination of the various specialised components of medical intervention which must be organised and managed simultaneously. The purely technical equipment required for these pre-requisites is usually available. Their application is a matter of policy and therefore of recognisable responsibilities. The following pattern of facts was clear in the case of Bhopal :

1. There was a clear denial of the right to transparent information. Knowledge of the possible evolution and consequences of the pathology, as well as potential remedies, was denied. This amounted not only to a failure of passive non-communication, but to an active misleading on the part of the Union Carbide Corporation.
2. There was a failure to advocate the timely intervention of independent international bodies and agencies, which could have provided necessary information and guidance. The Indian Government adopted a position of absolute self-sufficiency which placed excessive burdens on the Indian Council of Medical Research and denied the victims their rights to independent professional evaluation.

Facts and Findings of the Bhopal Case

3. The most striking and appalling failure is indicated by the absence, even so many years after the event, of any systematic epidemiological plan to provide reliable knowledge about the extent of injury. This is particularly important in the case of an accident where the complexity and difficulty is not so much in the nature of the toxic component, but rather more in the geographical and social extent of exposure, the background circumstances of the population, and a multi-system failure of coping mechanisms.
4. The many national and international, and often sophisticated, investigations of the medical effects in Bhopal fail to overcome a fundamental limitation, which is the absence of a reliable geographical and social map of the affected persons. A national medical task force (with or without international assistance) was warranted from the very early phase, and should have been mandated to declare its procedures, to comply with internationally accepted professional standards, and to publish all findings for public scrutiny.
5. The nature of the population involved, including its socio-economic position and the difficulties in access to medical care, required an epidemiological approach based on a deep, systematic, and periodic involvement of community groups. Such an approach, using already well known and readily available techniques, which not only generate more reliable and sensitive data, but which favour the development of awareness among individuals and groups in the community, could have been co-ordinated in consultation with internationally recognised epidemiologists.
6. The long term failure to provide any of the above interventions can only be seen as a sign of obvious irresponsibility on the part of the Indian government health authorities. While any elaboration of the reasons behind such a failure would be mere speculation, it is clear that the failure itself is an unmistakable sign of disregard for the right to information which was (and is) an indispensable condition for proper care and compensation.
7. Because of the magnitude the case, and the way in which it symbolised the contradictions of industrial development, the failure to provide an independent analysis of the health situation of the Bhopal victims involves also the responsibility of the health professionals themselves. The health professionals could have used their influence with the government and among the UN agencies and other international bodies to lobby for more

Findings and Judgements of the Third Session of the PPT

satisfactory intervention. The medical profession has a clear social responsibility to mobilise its political resources in such cases, and in Bhopal it clearly failed miserably.

8. A quantitatively accurate estimate of the medical damages induced by the disaster, which occurred eight years ago, will never be possible. A methodologically serious effort should however be attempted to evaluate and critically revise the existing data, not only to have better estimates of the degree of severe consequences, but also to provide the people of Bhopal with reliable and transparent information to be used in ascertaining long term consequences.
9. Because of the extremely poor record of reliability and transparency which has characterised medical studies of Bhopal, any pretension to rely heavily on the present medical evidence for quantifying damages or deciding compensation measures must be regarded with profound suspicion. Existing data are almost certainly tainted by substantial under assessment and misreporting.
10. Health consequences are only partial, though often crucial, indicators of a more profound disruption of the society where more extensive consequences have occurred. The compensation for such disruption cannot obey a criterion of impossible quantitative certainty. The absence of adequate medium and long term medical care of an appropriate variety signals the irresponsibility of the Indian and Madhya Pradesh governments. The people of Bhopal have a legitimate expectation that future policies will be able to compensate for their painful stories of neglect.

**DEFINITIVE
CONCLUSIONS
AND JUDGEMENT
ON THE
BHOPAL CASE**



Definitive Conclusions and Judgement on the Bhopal Case

CONCLUSIONS

Having received both oral and written testimony from victims, workers, experts and others at all three sessions of the Tribunal on industrial and environmental hazards and human rights (Yale, Bangkok, and Bhopal) the Tribunal finds that:

1. The fundamental human rights of the victims of the world's worst industrial disaster, including Articles 1, 7, 10, and 16 of the Universal Declaration of the Rights of Peoples (Algiers, July 1976), Articles 1, 2, 3, 5, 7, 8, 12, 17, 19, 23 and 25 of the Universal Declaration of Human Rights (New York, December 1948), and Articles 14, 19, 21, 38, 39, 41, 42 and 43A of the Indian Constitution have been grossly violated.
2. Union Carbide Corporation, its subsidiary, Union Carbide (India) Ltd., and key officials of both are clearly guilty of having caused the world's worst industrial disaster through the design and operation of the Carbide factory in Bhopal, regardless of the extent to which others, including local, state, and national government, may have contributed to the disaster. This finding is based on Carbide's own documents, the evidence generated through the discovery process in the Federal District Court in New York, and oral and written testimony presented at three sessions of this Tribunal.
3. The Government of India and the Government Madhya Pradesh are also clearly guilty of violating the rights of the victims, not only under international human rights law, but also under the Indian Constitution. The catalogue of wrongs inflicted on the victims by these governments is long, beginning with location of the extremely hazardous MIC unit in a populated area in contravention of the government's own rules and the urban plan for Bhopal. The catalogue continues with such wrongs as the deliberate miscategorisation of victims in terms of injury or disablement, the refusal to register a large number of claims, including many children, and the inexcusable delay in processing claims (still not complete after more than eight years).
4. Existing mechanisms to deal with the consequences of such catastrophes, and to prevent them happening in the first place have failed miserably thus far in Bhopal. Equally conspicuous for their failure are the two prevailing

Findings and Judgements of the Third Session of the PPT

modes for dealing with threats to the environment and human safety, namely, industry self-regulation and government policing.

5. Also conspicuous in their failure to help ameliorate the distress of the victims have been, with some notable exceptions, the legal and medical professions. Indeed, on some occasions these professions have aided and abetted revictimisation of the victims.
6. Under no circumstances can the killing and injury of so many innocent people be considered an acceptable cost of development. Such a rationalisation reflects a twisted and pathological approach to social and economic change.

JUDGEMENT

Based on these findings, the Tribunal **regrets and deplores:**

1. The manner in which the due process of adjudication was circumvented, the premature and unwarranted announcement of the February 1989 order imposing an unjust settlement on victims without consulting them. This order is all the more deplorable because it allowed UCC to escape without facing legal or financial responsibility, because the amount of the settlement is too little to meet existing needs, and because the unmet burden will fall on the Indian taxpayer rather than the guilty party.
2. The prevention, through this settlement order, of completion of hearings on the merits in the case.
3. The justification of the settlement by way of a manipulated medical categorisation which violated the right to justice of victims, and virtual accomplished denial of expeditious and equitable realisation of damages and compensation.
4. The failure of the Indian Supreme Court to seize the opportunity to keep Union Carbide in its continuing jurisdiction for a definite period of time to ensure that its duties of cooperation in recognising rights of victims and meeting their legitimate claims arising from the latent, unfolding, and long term effects of MIC would be fulfilled.
5. The lack of proper health care, which has been denied to most of the victim community.

Definitive Conclusions and Findings on the Bhopal Case

6. The denial of the basic dignity of victims, who have been subject to highly arbitrary bureaucratic processes, such as the administration of interim relief, review of victim claims, and unkept promises of medical treatment. Victims of industrial and environmental hazards have a non-negotiable right to dignity which has not been respected in Bhopal.
7. Policies of urban destruction which revictimise the victims by destroying their impoverished access to the right to shelter and callous diversion of funds intended for rehabilitation of gas victims for urban development and beautification unrelated to their real needs.
8. The failure of government to provide sustained and meaningful opportunities for the vocational rehabilitation of the victims so that they would no longer be dependent on government doles.

The Tribunal **appreciates** the following developments as historically appropriate responses that set precedents for comparable action in other cases involving violations of human rights from industrial and environmental hazards:

1. The provision, following an exceedingly long and concerted campaign of protest and lobbying by the victims, of *interim relief* aimed at helping victims resist the imposition of unfair or inadequate settlements, even though the relief started more than four years after the disaster and its administration has been marred by corruption.
2. The rigorous enunciation and pursuit of the legal doctrine of *absolute multinational enterprise liability* by the government of India which we urge be universalised through national legislation and international agreement.
3. The lodging of *criminal charges* against Union Carbide Corporation, its Indian subsidiary, and key officials of both companies.

The Tribunal **recommends**, with the utmost concern for immediate and effective action, that the following steps be taken without delay :

1. Development and implementation by the governments of India and Madhya Pradesh of a comprehensive plan of action for economic and medical rehabilitation of victims, formulated with the participation of victim groups and accountable to both, the local and international communities.
2. Assurance by the national and state governments of continued access to

Findings and Judgements of the Third Session of the PPT

shelter in accordance with international standards set forth in international human rights instruments, such as the Universal Declaration of Human Rights, the Covenant of Economic, Social, and Cultural Rights, and the Declaration on the Right to Shelter.

3. Development of clear biomedical criteria for compensation of victims, with satisfactory provision for those victims unable to document the connection between their current disability, eight years after the disaster, and exposure to MIC and other gases from the Carbide pesticide factory. The distribution of compensation must not only avoid false claims, but also must avoid unjust exclusion of true claims. The government must expect that a large number of victims will have legitimate claims and yet be unable to document their residential and medical histories. An inability to provide documentation cannot be an excuse for revictimization.

Voluntary organisations and activists should consider how they can help local communities organise by neighbourhoods, identify their victims, and assist them in documenting their expenses during and since the disaster. Action should also be taken to restore 7 out of 15 categories of compensable claims as set forth in the Bhopal Gas Leak Disaster (Registration and Processing of Claims) Scheme of 1985 and as directed by the Government of India Ministry of Chemicals and Fertilizers in its letter of 13 April, 1990 to the Madhya Pradesh Welfare Commissioner for Bhopal Gas Victims.

4. Provision of adequate, readily available, and continuing health care and monitoring.
5. Creation of an independent international Medical Commission to review available data on the health conditions of the victims, to identify gaps in the data with recommendations of how, if at all, they can be filled, and to propose realistic criteria for determining how the victims, on the basis of available and readily obtainable data can be classified. This Commission might also be designated as a body to which individual victims could appeal their medical categorisation if the government persists with its present effort to determine medical conditions on the basis of existing health records and superficial medical examinations.
6. Establishment of an international panel of medical and economic specialists in compensation to determine fair compensation levels for different categories of disabled victims and for relatives of the deceased.

Definitive Conclusions and Findings on the Bhopal Case

7. An independent investigation into the harassment of women victims, including police violence. The investigation should also examine attempts to interfere with their efforts to organise for mutual protection and advocacy of their rights. The investigation should consider violations of rights as set forth in the Indian Constitution and international law including the Convention on the Elimination of All Forms of Discrimination Against Women.
8. A comparative study by an independent body of competent persons of the safety systems and procedures in the Carbide pesticide factories in Institute, West Virginia, and Bhopal to determine to what extent the Bhopal disaster can be attributed to double standards between similar plants in industrialised and Third World countries.
9. Prompt issue of an extradition order for former Union Carbide Chairman Warren Anderson under the Indo-US extradition treaty and vigorous and timely prosecution of Warren Anderson and the Union Carbide Corporation for culpable homicide as stipulated under the Indian Penal Code and in fulfillment of the Supreme Court decision of October 1991 restoring the original criminal charges.

**FINDINGS
AND
CONCLUSIONS
ON
OTHER CASES**



Findings and Conclusions on Other Cases

In the Bhopal session, the Tribunal heard other cases, principally from Asian countries, and records its finding as follows. In each case, allegations were made of human rights violations associated with industrial and environmental hazards. These cases differ in character, demonstrating that industrial and environmental hazards occur in both large scale and small scale undertakings, and can be manifested in both isolated incidents and long term poisonings. Hazards may occur in a variety of circumstances, but in each case there appears to be ample evidence of harm to humans, including insult, injury and death. While it has not been possible to reach definitive conclusions on each incident, the Tribunal urges all parties concerned to take prompt and effective action to protect the rights of workers, communities, and victims.

1. AGENT ORANGE IN VIETNAM

The Tribunal heard testimony of a highly technical and extremely well-documented nature on the effects of Agent Orange sprayed by US troops during the Second Indo-China War (1961-1975). The testimony complemented that received at the Yale session on the effects on Agent Orange on US veterans. Agent Orange, a herbicide containing the highly toxic substance dioxin, was sprayed on an estimated 14% of South Vietnam's woody vegetation cover. Vegetation was lost, trees were damaged, and widespread soil erosion resulted. Rivers were polluted with dioxin, and animal life sustained a moderate level of damage later exacerbated by the lack of vegetation cover. Evidence was presented from medical studies and a recent Food and Agriculture Organisation investigation. Combining satellite measures with biochemical analysis of soil and wildlife samples now allows for a more complete estimation of the extent of environmental damage sustained as a result of the war. Dioxin levels in breast milk and fat tissue remain high. Dioxin is still evident in soil samples and in the silt of the Saigon river. The same symptoms which have been shown to occur in US veterans — abnormally high mortality rates, high prevalence of neurological disorders, abnormally high incidence of cardio-respiratory disorders, and abnormalities in semen — continue to affect a large proportion of Vietnam's population. The Vietnamese people and territory have become an experimental laboratory where the biological and epidemiological consequences of uncontrolled pollution can be monitored. The affected community also experiences a high degree of insecurity in the face of unknown effects, and is revictimised through its dependence on external sources for the expensive technological tools necessary to assess its condition.

The use of chemical warfare in Vietnam is by now a well established fact. The Tribunal can only conclude that the systematic and deliberate exposure of a large population to a known toxin such as dioxin amounts to a gross violation of rights to life, health, and dignity. That the violation occurred during a time of war does not excuse the violation. Since exposure, the Vietnamese victims, unlike their US counterparts, have had no opportunity to voice their complaints before the US government. Not only have the victims carried on their lives without medical support or compensation from the perpetrator, their plight has not even been officially recognised. Though the case involves issues relating to the conduct of war beyond the remit of this Tribunal, we wish to emphasise that environmental hazards cannot be justified by war, and that the US government should be held accountable for its actions. There appears to be a continuity and complementarity between military and industrial hazards: shared technologies, techniques and systems of power bear further consideration in the next session of the Tribunal.

2. BENGUET CORPORATION, PHILIPPINES

The Tribunal received oral and written testimony regarding the open pit gold mining operation conducted by the Benguet Corporation in the Itogon region of the Philippines. Though small scale mining has operated in the area for many years, the commencement of large scale mechanised mining started in 1989, and appears to have had disastrous social and ecological effects. The plaintiffs described in detail the following consequences:

- Environmental destruction manifested in the levelling of tall mountains, excavation of craters up to 300 feet deep; stripping of vegetation and topsoil without provision for resoiling and with an attendant loss in biodiversity; pollution of the river system flowing from Itogon with heavy metals, poisonous salts, and acids; damage to aquifers and a lowering of the water table; uncontained dumping of toxic chemical wastes in the form of mine tailings.
- Widespread health and safety hazards resulting from chemical poisoning, underground blasting, improper storage of toxic substances, dangerous mine structures, and unregulated fire hazards.
- Dislocation of small scale miners, mine workers, and farmers, with attendant loss of livelihood for some 20,000 to 25,000 people.

Findings and Conclusions on Other Cases

- The loss of ancestral land belonging to the indigenous people of Itogon was affected when the Benguet Corporation acquired patented mining claims based on suspect legal provisions.
- Violation of the indigenous cultural traditions, including the desecration of sacred burial grounds and destruction of places of worship.

Taking this and other evidence into account, the Tribunal concluded that the evidence overwhelmingly indicated that a gross violation of human rights has occurred. The fundamental rights to health, livelihood, and a satisfactory environment have been violated without recompense or mitigation. The indigenous people have suffered violation of their rights to land, resources and cultural autonomy as guaranteed under international instruments. The Benguet Corporation appears to have violated various provisions of Philippine law, including the protection of indigenous peoples guaranteed under the Constitution, the re-soiling requirements under Presidential Decree No. 463, the environmental rehabilitation requirements under Presidential Decree No. 1198, and requirements for environmental management under Proclamation 2048 and Presidential Decree No. 1151. The people of Itogon have been subjected to harassment, arrest, detention, and irresponsible criminal prosecution. The Philippine government has failed to protect the rights mentioned above, and has supported a gross violation of the fundamental right to justice. Philippine law has served the interests of the Benguet Corporation without providing the victims with effective relief. Accordingly, the Tribunal has arrived at the following conclusions :

1. The Tribunal endorses the findings of the Second International Water Tribunal and calls upon the Philippine government to close down the mining operations immediately pending further action.
2. The existing environmental impact assessment is inadequate, and we urge that a new assessment should be conducted by an independent group of internationally-recognised experts.
3. The Tribunal requests that the Philippine government enforce its own laws as outlined above, and abide by its obligations to the international community to protect the livelihood of indigenous people.
4. The Tribunal the scientific and legal communities of the Philippines to lend their technical and professional assistance to the people of Itogon.

Finally, we note with extreme concern that though the people of Itogon made their case in a reasonable, well-documented, and legally sound fashion, the Philippine government has failed to respond to their legitimate demands.

3. MINAMATA AND NIIGATA, JAPAN

The Tribunal heard testimony from people affected by the methylmercury discharged by the Chisso foundation in Minamata, Japan. The release of methylmercury into coastal waters resulted in the death of fishes, birds, and domestic animals. Then, starting in 1953, humans began to experience neurological disorders, for which there is no effective medical treatment. Neither the Chisso corporation nor the local government took any effective steps to prevent the incidence of Minamata disease. Even after the cause of the disease was identified in 1960, preventive measures were not taken, and in 1965 a plant operating with an identical process discharged methylmercury into the Agano River in Niigata Province. Industry and government failed to learn from the Minamata incident, and it was only at this time that the government belatedly prohibited the direct discharge of methylmercury. In Minamata, approximately 1,300 people have died from the disease, currently 2,200 persons have been officially recognised as having Minamata disease, and about another 10,000 are suspected of having the disease. In Niigata, the numbers are approximately 300 or 700 officially recognised with the disease, and about 2,000 suspected of having the disease. Victims have been subject to extreme social censure, derision, and humiliation. Though some of the victims have been paid compensation, the majority of cases are still outstanding, awaiting a slow judicial process.

In the cases of Minamata and Niigata, the Tribunal finds the evidence clear and overwhelming. The right to life has been violated on a scale which resembles small scale genocide. The right to health has been subject to similar abuse. There have been straightforward and unambiguous violations of victims' rights to preventive measures, information, dignity, compensation, and justice.

4. ASIAN RARE EARTH, MALAYSIA

Unfortunately, representatives for the plaintiffs were denied entry visas to Malaysia and were thus unable to testify. However, previous testimony had been presented.

Findings and Conclusions on Other Cases

at the Bangkok session, and testimony was presented at the Bhopal session on their behalf. The Tribunal received evidence of highly hazardous operations being conducted by the Asian Rare Earth company in Bukit Merah, Malaysia, which is jointly owned by Mitsubishi Chemical Industries Ltd., and a local company, Beh Minerals. Since the plant was established in 1982, abnormally high rates of miscarriages, infertility, infant deaths, leukaemia, and congenital malformations have been reported. In 1985, the Bukit Merah community brought a civil action against ARE in the Ipoh High Court. After a three-and-a-half year trial and evaluating the testimony of competing experts, the Court decided in 7.11.92 that the plant is not safe for operation. The High Court ruled that ARE is not entitled to operate its factory and keep its toxic and radioactive waste in Bukit Merah Industrial Estate. The Court gave the defendants 14 days to remove everything.

The defendants applied for stay of execution, which was granted by the Supreme Court on 5/8/1992. The Supreme Court merely held that the plant needed more time to stop operations as well as to remove the radioactive waste to a determined dump site. It did not decide whether the plant was safe for operations. Indeed, it was not asked to do so. Ironically, the Prime Minister, on 17/8/1992 stated that he will only respect the findings of certain kinds of experts with regard to establishing whether ARE is safe to continue operations.

It is noted that this highly hazardous industry commenced production in July 1982 without a license under the Radioactive Substances Act, 1968 from the Ministry of Health, the proper authority for issuing licenses. This license was obtained in November 1985, only after the Bukit Merah community filed a civil action and obtained an interlocutory injunction against the defendants. Research has shown that the hazardous operation of the factory has exceeded the legal limit for exposure to radiation imposed by the Atomic Energy Licensing Board under the Atomic Energy Licensing Act, 1984.

Without doubt industrial hazards caused by ARE have affected health and life of the surrounding community, especially women and children. The Tribunal expresses alarm over the information conveyed to the panel of judges that the Papar Community may have lost faith in court action, since the Supreme Court could easily bow to political pressures and overturn the earlier High Court decision. The Tribunal hopes that the people in Malaysia and all over the world will continue to support the struggle of the Papar Community and that the

government of Malaysia will show greater concern for the community members than the profits to be accrued from this dangerous development.

5. TEXTILE WORKERS IN SOUTH KOREA

Evidence was received concerning carbon disulphide poisoning among textile workers employed by Wonjin Rayon Ltd. The affected individuals, who suffer from a variety of systemic maladies, have struggled to have their conditions recognised by the company and the government. The government medical authorities appear to have grossly underestimated the level of injury, while neither the company nor the government have abided by the workers' demands to establish a regime for monitoring worker health. Worker protest was successful in prompting prosecution of the company chairman, but their health continues to deteriorate. Despite an agreement with the government and the company to institute an independent injury assessment committee, the Ministry of Labour has suddenly asserted that the committee is illegal, and the struggle continues.

This case is indicative of a much broader pattern of disregard for worker safety in South Korea, but it is unusual in that workers were actually able to mount a campaign which received public recognition. Witnesses testified that though the workers' right to know is guaranteed under the law, it is virtually impossible to get information in the workplace. The government's industrialisation policies have created an environment in which employers are almost never punished for their violations of the law while trade unions are rigorously policed.

The Tribunal finds that the workers' rights to information and a safe workplace have been repeatedly violated. Wonjin Rayon and companies like it have an absolute duty to provide workers with information which may affect their health. The government has failed to protect worker rights to association and health. In the particular case of Wonjin Rayon, there is a *prima facie* case of criminal negligence.

6. OCCUPATIONAL HAZARDS IN THAILAND

The Tribunal was presented with evidence of asbestosis and silicosis among workers in Thailand. A number of Thai industries use asbestos in production processes, and the health and safety measures employed are often far below the standard prevalent in higher income countries. A high incidence of asbestosis has

Findings and Conclusions on Other Cases

been found in surveys of industrial workers exposed to asbestos. Other studies have reported a high incidence of silicosis in an iron ore mill (12.5% of workers), and among stone mortar workers in northern Thailand (21% of workers). Silicosis is a serious condition which is not reversible and can lead to debilitation or death.

In each of the cases it is clear that the Thai government has failed to provide a regulatory structure adequate to the task of preventing workers' injury. There have been unnecessary violations of the rights to health. The Tribunal wishes to convey to the Thai government its extreme concern at the apparent disregard for the well being of workers.

7. SILICOSIS IN AN INDIAN GLASS FACTORY

Testimony was received regarding the incidence of silicosis among workers in the Alembic Glass Factory, Baroda, India. Inhalation of fine silica dust at the workplace has led to the death of at least 15 workers so far. At least 70 workers suffer from progressively deteriorating lung disease. Company doctors misdiagnosed pulmonary tuberculosis, and workers mounted a struggle to have their condition recognised by national authorities. While some compensation is now being paid, the injury assessments are unsystematic and arbitrary, and payments are much delayed.

The Tribunal registers its concern at the apparent violation of substantive and procedural rights, and urges that the state and national authorities take prompt action to prevent the recurrence of silicosis, and ensure more satisfactory compensation to the injured and bereaved.

8. CIPEL-MARCO INCIDENT IN HONG KONG

Testimony was heard regarding a benzene fire in the Cipel-Marco factory in Hong Kong. It appears that the company and the Factory Inspectorate of Hong Kong failed to ensure that the highly toxic and flammable benzene was properly stored and managed. The testimony documented hazardous storage methods, frequent spillage, excessively high ambient temperature in the benzene area, and inadequate provision of information and training to workers. More than 50% of the workers are reported to have smoked in the vicinity of the benzene. Overheated ball bearings triggered the fire of October 1986 which killed

13 workers and severely injured 24 others. Trade unions provided support to victims and launched a campaign to highlight the hazard involved. This resulted in a new law on Carcinogenic Substances in Industry. Subsequent campaigning has produced further legislation on hazards in industrial undertakings.

The Tribunal notes with satisfaction the progress made by the trade unions and commends their actions as an example for others involved in similar struggles. However, it is profoundly unfortunate that death and injury have occurred on such a large scale before government and industry were able to take action. Moreover, testimony indicates that without trade union vigilance and campaigning, what gains have been made may be quickly lost.

9. OCCUPATIONAL HEALTH HAZARDS IN TAIWAN

The Tribunal received detailed and meticulously documented evidence on occupational hazards in Taiwan. Two representative cases, one of electric shock and the other of severe burns, are typical in a country which registers 100 occupational deaths per month. Mechanisms for prevention and compensation appear to be grossly inadequate. Small scale units are able to avoid government regulation, but government standards appear to be unusually lax even in the formal sector. The gross violation of workers rights in Taiwan is encouraged by a *laissez-faire* policy which resists holding employers accountable for their actions. Based on this evidence, the Tribunal concludes:

1. It is evident that the widespread occurrence of occupational hazards in Taiwan stems in part from deliberate government complacency. The Tribunal urges the Republic of China to assume responsibility for occupational hazards, to pursue preventive measures without delay, and to take responsibility for supervising effective compensation. The notion that liability exists only between citizens and private companies is excessively narrow. Occupational hazards result in part from the state's development strategy, and the state has a general obligation to protect the rights of its citizens.
2. Workers should be given access to all reports, documents, and materials concerning the implementation of protective regulations.
3. At present, employers are only compelled to report accidents if three people are injured. The obligation to report should apply even if only one person is injured.

Findings and Conclusions on Other Cases

is injured. Immediately following the report, the government inspectors should carry out an effective and comprehensive investigation, making the findings known to workers.

4. Employers who openly violate health and safety laws should be made subject to strict criminal sanctions.
5. Trade unions and professional groups should be consulted in the revision of current health and safety laws.

10. INDUSTRIAL HAZARDS IN GUANGDONG PROVINCE, PRC

A video presentation and written testimony were submitted to the Tribunal on industrial hazards in the Guangdong province of the Peoples Republic of China. This province has been subject to rapid and often imperfectly planned industrialisation. Growth has been particularly fast in the three special economic zones of Shenzhen, Zhuhai and Shantou. Workers in the province complain of a number of rights violations :

- At least 66 workers have died in the last year in fires or explosions at the workplace. The majority of cases can be attributed to inadequate safety and hazard prevention measures.
- There are inadequate industrial safety measures against dust and fumes; personal safety devices are inadequate or missing entirely.
- There is widespread infringement of workers' rights including body searching, hostel searches, illegal deduction of wages, and physical harassment.
- Since 90% of the migrant labour force is female, many have been subject to sexual abuse or have been forced into prostitution. Resistance has been met with arbitrary dismissal and violence.

The Tribunal does not possess sufficient evidence to reach a definitive conclusion on this case, however, there is evidence of death and injury associated with industrial hazards. Violations of the rights to life and health appear to be closely associated with violations of the rights to physical and mental integrity.

Findings and Judgements of the Third Session of the PPT

There appears to be a systematic violation of the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women. Finally, the Tribunal registers its concern that workers in the Peoples Republic of China do not appear to have access to the rights of free speech and association which are pre-requisites for worker safety.

11. HAZARDS IN THE EXPORT PROCESSING ZONE, SRI LANKA

Testimony was provided of occupational hazards in the Eskimo Fast Knitwear Company based in the Free Trade Zone near Colombo. Workers at the factory complain of exposure to chemicals and fumes in the dyeing section of the factory, indicating that they have not been supplied with safety equipment and that prescribed safety measures are not followed. Management has ignored complaints of skin disease and respiratory problems. Workers' attempts to voice their concerns have been met with dismissal.

The Tribunal did not gather enough evidence to reach a definitive conclusion in this case. However, in circumstances where workers are dismissed in a discriminatory fashion due to their raising of occupational health and safety issues, there is a clear violation of the rights to equality, expression, and non-discriminatory employment. Additionally, the Tribunal notes that Sri Lankan evidence, like that from the Peoples Republic of China, points to the particular problems of special economic zones. In export processing zones and special industrial zones, where states seek to encourage rapid industrial growth and transfer of technology, there is often a deliberate policy decision to waive labour and environmental standards. This is a matter for extreme concern as it deprives workers and communities of state protections, and overtly fosters the violation of the rights to life, health, association, expression, and a satisfactory environment.

12. INDUSTRY IN SOUTH TEXAS

The Tribunal was presented with evidence showing serious violations of the human rights of workers and communities surrounding two large chemical facilities in Calhoun County, Texas. One of these facilities is a Union Carbide Corporation plant at Seadrift, Texas. The other is a Formosa Plastics facility at Point Comfort.

Findings and Conclusions on Other Cases

In the case of Union Carbide, there was a serious explosion on 12 March, 1991, in which 1 worker was killed and 32 injured. The shrapnel propelled by that explosion barely missed storage tanks in an ethylene oxide tank farm only 150 feet from the site of the explosion. If the shrapnel had struck one of the tanks, it could have created a huge explosion by setting off the entire tank farm where the equivalent of 58 tons of TNT was stored.

A subsequent investigation by the Occupational and Safety Health Administration, a U.S. government agency, revealed that internal safety auditors had informed the Seadrift facilities management of the potential hazard posed by the tank farm's location in 1971, 1978, 1986, and 1989. As in the case of its plant in Bhopal, where an internal safety audit team had warned of serious safety problems at the plant, two years before the plant erupted and gassed the city of Bhopal, the Carbide management ignored these warnings, arguing that it would be too costly to respond properly to them.

The record of Formosa Plastics in Calhoun County, Texas, where the Union Carbide facility is also located, is, if anything, even worse. That plant, in operation for the past decade, has emitted vinyl chloride, a known human carcinogen, on frequent occasions, sometimes in large amounts. Formosa Plastics is now engaged in a massive expansion of its Point Comfort plant so that it will become one of the largest of its kind in the world. This construction was initiated without the company having obtained the necessary government permits, apparently on the assumption that, by presenting government agencies with an accomplished fact when the construction was nearly completed, it would be virtually impossible to deny the company permission to put the plant into production.

The Tribunal gave careful consideration to the statement submitted by the Formosa Plastics Corporation in its defense. The Tribunal is glad to see that the management of the corporation professes concern about issues such as protection of the environment and the health and safety of its workers and the surrounding community. However, we observe that many of the violations of state and federal laws and regulations have been investigated by the appropriate government agency and sustained through that investigation, leading to substantial fines, which Formosa Plastics has paid. Indeed, there appears to be a pattern of lawless behaviour emerging. The company willfully violates the law because it is easier and less costly to pay the legal fines than it is to bring its operations into conformity with the law.

Findings and Judgements of the Third Session of the PPT

Both, the Formosa Plastics plant at Point Comfort and the Union Carbide facility at Seadrift are located in Calhoun County, approximately 100 miles southwest of Houston on the Texas Gulf coast. Calhoun County one of the poorest counties in Texas with chronically high unemployment. Like many of the communities in various Asian countries whose cases have been presented to the session of the Tribunal, the people of Calhoun County are extremely vulnerable to aggressive, high-handed behaviour by large corporations such as Union Carbide and Formosa Plastics.

On the basis of evidence submitted to it, the Tribunal finds serious and sustained violations of key human rights, including but not limited, the following:

The right to life itself, the most fundamental of all rights. (At least 1 Carbide worker and 4 Formosa Plastics workers have been killed in recent years);

The right to a healthy and safe environment;

The right to livelihood, particularly of the fishing communities along that coast. (Both plants discharge toxic substances into bay waters, which have experienced massive die-offs of dolphin and brown pelicans, and endangered species, and some coastal waters have been closed to further commercial fishing).

The Tribunal urges both the Union Carbide Corporation and Formosa Plastics Corporation to cease and desist from violating these and other internationally recognized human rights.

The Tribunal observes that in the case of Union Carbide, its refusal to grant the requests of the Calhoun County Resource Watch for key documents related to the safety of the Seadrift facility and for local citizen inspection with their own technical experts, makes a mockery of Carbide's participation in the U.S. Chemical Manufacturer's Association "Responsible Care" program. Union Carbide is clearly not observing the principles of Responsible Care, (one motto of which is "Don't Trust Us, Track Us,") and unless it changes its behaviour immediately, should be expelled from participation in the program by the CMAA. And in the case of Formosa Plastics, in view of the abject failure of the regulatory process in the hands of both state and federal governments, further work on

Findings and Conclusions on Other Cases

Formosa Plastics massive expansion of its Point Comfort facility should be halted immediately until a thorough and truly independent audit of all aspects of the expansion project have been examined in terms of their consequences for the health and safety of workers, the surrounding community, and the environment.

The significance of these cases for the other cases from Asian countries presented to this session of the Tribunal are two fold. First, with regard to the Bhopal disaster, it appears that Union Carbide is guilty of similar rights violations in another context, and has failed to revise its mode of operation following Bhopal. Second, while this and other sessions of the Tribunal have been presented with various cases in which U.S., European, and Japanese-based multinationals behave irresponsibly toward and escape accountability to their workers and surrounding communities in the Third World, Third World-based multinationals behave in a similar manner toward vulnerable workers in low-income communities in industrialized communities. The critical determinants of irresponsible behaviour and lack of accountability are thus not geographical location of either the victim community or corporate headquarters but the highly unequal distribution of power between large multinational corporations and poor communities and workers, and the vast distance that separates key decision makers in the corporation from those at the local level who are most directly affected by their actions.

**GENERAL
FINDINGS ON
ENVIRONMENTAL
AND INDUSTRIAL
HAZARDS**



NUCLEAR TECHNOLOGY HAZARDS

The hazards of the nuclear industry and radioactive materials deserve special mention. The promise of atomic energy over the last 50 years has proved to be largely illusory and instead turned into a nightmare for the peoples of the world. Putatively 'expert' decisions taken under the cloak of secrecy have now been exposed the world over as fostering serious risks to all of humanity. The arbitrary action of governments, the military establishments, and their industrial partners have often been shrouded in secrecy. Yet, individuals and communities have resisted decisions to locate nuclear installations, opposed that conduct of nuclear tests, publicised the problems in the disposal of nuclear wastes, and opposed the irradiation of food in the name of food preservation. However, community resistance often fails to redress the formidable human rights abuses perpetrated by governments and industry in the name of nuclear science. Even after the end of the Cold War, there is little open discussion allowed on the issues of winding down the nuclear establishment and its associated industries. Communities are not consulted in decision making and are denied access to information essential to their physical and mental well being. The Tribunal can only note with the most extreme and urgent concern, the large numbers of concerned individuals, who, having voiced criticisms of the global nuclear industry, have met with brutal deaths in suspicious circumstances. The inherently hazardous nature of radioactive materials, and the extraordinary long duration of such hazards, pose a serious threat to the right to health, not only of this generation, but of many generations to come. The potential and immanent violations of fundamental human rights, including life, health, and livelihood, demand immediate international action. The Tribunal therefore calls upon the international community to:

1. Place an absolute ban on all nuclear tests;
2. Conclude an international agreement on the open inspection of nuclear installations in all locations by United Nations teams composed of reputable and qualified individuals serving in their personal capacity;
3. Agree to a moratorium on the establishment of any kind of nuclear reactors and facilities until inherently safe designs are evolved and demonstrated, and until truly safe and enduring methods of disposal of nuclear waste have been developed, keeping in mind that inherently safe designs may not be within the reach of human capabilities;

4. Provide full and open information in the public domain concerning existing nuclear facilities;
5. Provide prompt and fully adequate compensation to all individuals and communities who have suffered from radiation exposure and contamination.

HUMAN RIGHTS AN AGE OF HIGH RISK TECHNOLOGY

With increasing mechanization, industrial units and equipment use more concentrated and much higher forms of energy (mechanical, chemical, thermal, and radiation). As a result, a mishap has the potential of inflicting very severe and widespread damage. This has been contained *to some extent* in the high income countries, because technology has evolved there along with increased income. This process has been accompanied with social pressure and demands for safety in design and legislation. However, when these technologies are used in low income countries, or in low income areas in the developed world, the same social pressures are often absent, especially in conditions where workers and communities possess little political power and minimal access to information.

SMALL SCALE UNITS

A significant proportion of workers in Asia are employed in small scale units. Since such units exist in large numbers, and are often without trade union representation, it is difficult for government agencies, workers, or others to monitor their activities. The owners of small scale units also do not have the wherewithal either to gather information on occupational health and safety, or to implement safety measures. Mechanisms need to be evolved to safeguard human rights in these circumstances.

Though the Tribunal is not in a position to make definitive recommendations on this topic, several possibilities bear consideration. One possible way forward would be to form workers' associations on the basis of similar products and processes. These associations could then keep abreast of occupational health issues and countermeasures against damage. Secondly, small scale units might be brought under the rigours of state enforcement, and thus pressurised into

General Findings on Environmental and Industrial Hazards

disseminating information and responding to worker demands. A third strategy would be to establish community monitoring networks in areas where small scale units are numerous. It is important to remember that for the monitoring of small scale units, there may not be suitable models or precedents available from higher income countries.

LABOUR RIGHTS AND HAZARDS

In many countries in Asia, especially in the newly industrialising countries of Southeast Asia, there are severe restrictions on freedom of association for workers. The Tribunal notes, in particular, that the Malaysian government has consistently refused to abide by the findings of the Freedom of Association Committee of the International Labour Organisation in respect of workers' rights in the electronics industry. Although the Malaysian government has allowed for in-house unions to be formed in some factories, yet it has consistently refused to allow the formation of a nation wide union for electronics workers. Further, some electronics MNCs have sabotaged attempts by workers to form even in-house unions in their factories. In such circumstances, workers find it difficult to organise, and impossible to take individual action. Freedom of association is fundamental and should always be respected, but its violation is additionally outrageous in cases where workers and communities are exposed to life-threatening hazards.

LEGAL HAZARDS AND REVICTIMIZATION

Much of the evidence before the Tribunal has indicated that legal institutions often fail to prevent and control hazards, they are generally inadequate to the task of proper compensation, and contribute to delay, harassment, and further suffering on the part of victims. In many instances, victims' organisations have been suppressed by excessive and sometimes brutal policing. The Tribunal notes with extreme concern that in many cases, the existing legal systems condone behaviour which is otherwise unlawful under Constitutional law. In the Philippines, for example, there is a clear conflict between Constitutional rights and the laws governing land use, safety, health, labour, and industrial planning. These conflicts between general rights and regulatory regimes are common, and create a formidable barrier to effective community action.

MEDICAL DIMENSIONS

Modern chemicals and forms of radiation energy often cause harm which is insidious and at times manifests itself only after a long period of time. The time between these chemicals and radiation enter the body and damage tissues is often not perceptible. Therefore, it is frequently difficult or impossible for people to assess hazards on the basis of common sense and experience. Thus, in the absence of information from experts, people cannot protect themselves. Normal market mechanisms therefore cannot be expected to work in such situations. The press and public interest groups have a much greater responsibility in disseminating information about hazardous chemicals and processes using harmful radiation and in pursuing action against defaulters. Medical practitioners also need to be educated to detect special symptoms of problems which result from chemicals and radiation.

TRANSNATIONAL CORPORATIONS

In many of the cases considered by the Tribunal, transnational corporations have been identified as the main perpetrators of violations. This is true not only of a USA company in India, and Japanese companies in Malaysia, it is also true of a Taiwanese company in the USA. Multinational enterprises operate on a global scale and demand a global response. Although the fiction of separate national identity of individual units is maintained for public consumption and certain legal and economic advantages, in their basic statements the managers of these corporations do not attempt to disguise their global orientations. In the current situation, transnational cross-breeding in the ownership and control of operational processes has made the directing centres of large corporations largely indifferent to any consideration of national interest, rendering them independent of the national governments, whether in the metropolitan or peripheral countries. In these circumstances, public opinion and mass actions have an especially important role to play in countering dangerous proclivities, and prospects are opening up for united action by the people of the metropolitan and peripheral countries.

RIGHTS AND RESPONSIBILITIES

The Tribunal considers it axiomatic that industrial and environmental hazards pose dangerous and continuing threats to the survival and well being of millions.

General Findings on Environmental and Industrial Hazards

of human beings across the globe, and that among those most vulnerable are indigenous peoples and impoverished peoples of the South who often lack access to the medical, technical, legal and political resources to mitigate the disproportionate human suffering to which they are subjected.

Those who are most severely affected by industrial and environmental hazards are frequently treated as passive victims by governments, courts, and the medical and technical professions. Yet the overwhelming evidence before the Tribunal indicates that the role of passive victim has been repeatedly and vigorously rejected, as people have asserted their rights to be full citizens, with the attendant rights to dignity, justice, and full participation in their societies. The Tribunal affirms these rights, and condemns their violation in case of industrial and environmental hazards.

If the human rights relevant to industrial and environmental hazards are to have any legal or social effect, they must be linked to clear and specific duties. At present, the existing system of international law places duties principally upon states. Though nascent trends suggest that duties may also be articulated for international organisations, individuals, and corporations, these arrangements are clearly inadequate; the specific and absolute duties of governments, corporations, and individuals, must be articulated in conjunction with the enunciation of rights. We recommend that the fourth session of the Tribunal deliberate on responsibilities at greater length. In the interim, certain responsibilities are absolutely clear :

1. The international community has an absolute duty to prevent and mitigate hazards. In particular, every state has a responsibility to ensure that transnational investments and undertakings comply with the highest standards of care.
2. Governments have an absolute duty to protect the rights of the human community, whether citizens or foreign nationals. Governments are obliged to ensure that the content of the national law does not fall below basic human rights norms. Even in cases where corporations and individuals do comply with minimum norms, governments have a fundamental responsibility to minimise harm, suffering, and environmental damage. Finally, the duty which is most often neglected is the state's obligation to enforce legal standards with relentless energy and uncompromising rigour. This involves not compromising basic rights in agreements with foreign investors and/or with the IMF and IBRD. Governments must ensure that the

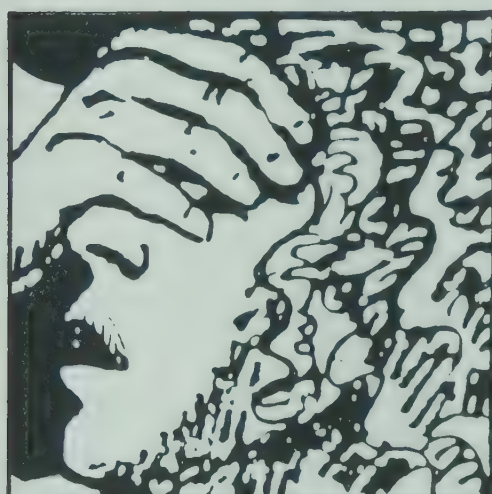
Findings and Judgements of the Third Session of the PPT

procedural law does not undermine basic protections by allowing corporations to escape liability.

3. Professional groups, including academics, engineers, lawyers, and medical professionals, have a responsibility to execute their tasks in accordance with the best professional ethics. In no circumstances should their actions contribute to the violation of fundamental human rights, and indeed, they should take steps to foster the full realisation of human rights.
4. Political activist groups which act on behalf of victims bear a responsibility to victims and the larger community. Such groups should ensure that they act to voice victim concerns and interests with the greatest possible fidelity. Victims should be represented equally, without discrimination based on race, sex, age, religion, or social status. Evidence should be presented in an accurate and clear manner, without indulging in unjustified exaggeration which would only damage victim claims in the long run. Groups should not allow minor differences of a personal or political nature to come in the way of coordinated support and advocacy. In particular, leaders of activist groups have a duty of care to ensure that victim claims are not manipulated in the pursuit of personal or political ends.

Against the backdrop of the above observations, the Tribunal makes the following proposals and recommendations.

**PROPOSALS
AND
RECOMMENDATIONS
FOR
ACTION**



GENERAL RECOMMENDATIONS

The world has now acquired ample experience of industrial and environmental hazards. Lessons must be learned from these experiences so that those who have died and suffered will not have done so entirely in vain. General strategies for preventing and mitigating the effects of hazards have emerged from the testimony. These strategies are to be recommended to actors at all levels, including victims' groups, communities, workers, businesses, governments, and the international community:

1. Where injuries have occurred — especially where they have occurred on a large scale, or in disputed circumstances — it is vitally important that *independent sources of medical assessment* be available. Governments should permit and support independent medical assessment free of political pressure. Activist groups and victims should demand independent medical assessment of the highest professional standard at the earliest opportunity.
2. Efforts should be made to make disaster management information and methods more accessible to community groups. This could include development of a personal computer based *disaster management package*, which should be in the public domain. Such a package should include :
 - a. Methods of recording missing people, hospitalized and dead victims, and found person reports; the programme could match records to put lost and found together;
 - b. Recording of property damage, health records, common antidotes and treatments;
 - c. Sources of information on technical subjects, including reference texts and resource people;
 - d. Information on calculating relief quanta according to international standards.
3. Methodologies of *objective injury assessment* for different types of damage have been developed by professionals for research purposes. These methodologies need to be collected and made available to professionals involved in post-disaster management. Very often medical professionals not involved in research are ignorant of these methodologies.

OH110
022 98

Findings and Judgements of the Third Session of the PPT

4. Since many of the day to day struggles over industrial and environmental hazards involve highly technical and specific questions, they frequently need to be resolved in terms of technical details. These struggles should be reinvigorated, wherever possible, with an awareness of fundamental human and peoples' rights. However in many instances, a rights-based approach will not be sufficient since the struggles will be conducted in terms of specific legal and technical issues. In these cases, trade unions and community groups should be able to draw upon *legal examples from other countries*. For instance, the experience of public interest litigation in India may provide a model for more effective remedies in other Asian countries. To this end, a comparative study of the best legal practice in Asia should be conducted, perhaps by a group such as the Occupational Health and Safety Centre, Bombay, or by international trade union organisations.
5. Trade unions, community groups, professionals, and governments should strive to produce more suitable and *responsive compensation schemes*. The device of interim relief adopted belatedly in the Bhopal case should be universalised to mitigate suffering while medical studies and litigation are in process. Victims should be entitled to scientific due process whereby features of independence, accountability, and appeal are built into the compensation scheme. Victims should be entitled to a second opinion on medical matters. In constructing categorisation schemes, governments and professionals should exercise vigilance to listen to the concerns of victims and avoid over-hasty categorisations. Categories should be kept flexible, admitting the possibility of revision in light of further medical evidence.
6. Since potential victims of industrial and environmental hazards are generations away, beyond the immediate imagination of most people, greater efforts should be made to *avoid short-term thinking*, especially at the levels of community decision-making and in the formulation of government policy.

RECOMMENDATIONS TO GOVERNMENTS

Governments not only bear the principal responsibility for protecting human rights, they also possess the administrative capacity and legal sanction to substitute undertakings to technical regulation. Though the Tribunal wishes to emphasise the importance of peoples' movements and international action, governments

Proposals and Recommendations for Action

action must be the foremost element in any rights protection system. Government action should be proactive and comprehensive, so the recommendations below are not exhaustive, but indicative:

1. Governments should establish comprehensive national insurance schemes which would provide complete and speedy cover for risks relating to industrial and environmental hazards.
2. Governments should systematically require that any plans for hazardous production, whether by government or private entities, should be made public at the earliest possible moment, and thus made subject to public debate. Details regarding manufacturing processes and chemicals should be made available to local communities. Governments should formulate freedom of information laws which entitle communities and workers to adequate information, and which could be used to compel companies and government agencies to produce information vital to the health and well being of citizens.
3. For every proposed instance of hazardous production, governments should require an environmental impact assessment to be conducted by a well-funded independent body, free of political and social pressure, and working to the highest possible professional standards. The assessment should be widely disseminated and made available for public debate.
4. For matters of injury assessment, governments should adopt the device used in South Korea of a joint medical board composed of medical doctors appointed in equal numbers by employers and workers.
5. Governments should take steps to consult competent non-governmental organisations at every stage of formulating and implementing policies on industrial and environmental hazards.

RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

Since industrial and environmental hazards represent an urgent and common problem facing all humanity, concerted international action is imperative. Given the predictable regularity and severity of industrial and environmental hazards, entailing unconscionable victimization of thousands of men, women and

Findings and Judgements of the Third Session of the PPT

children, the Tribunal recommends that members of the international community:

1. Establish a Specialised Committee on Industrial and Environmental Hazards to formulate standards conceived in consultation with workers' community groups, to guide member states on appropriate strategies of disaster prevention and hazard mitigation, and to supervise implementation of such strategies;
2. Expand the Technical Assistance to Developing Countries programme to include consideration and vocalisation of such strategies;
3. Urge the Human Rights Commission to introduce an agenda item on industrial and environmental hazards, and to explore the formulation of standards for the promotion and protection of human rights in situations of endemic or extraordinary hazards;
4. Mandate the International Law Commission to include in the progress of development and codification of international law the responsibilities of states, both exporters and importers of hazardous technologies, concerning the duties of cooperation to ensure protection of individuals and people threatened or affected by such technologies;
5. Call upon the World Health Organisation to provide for appropriate training programmes for medical professionals providing sustained health care to victims of industrial and environmental hazards;
6. Welcome the concern and work of the International Labour Organisation in the area of industrial disasters, but urge the ILO to evolve, in consultation with victims groups, principles and responsibilities applicable to governments, employers, and workers to mitigate human suffering in the wake of industrial and environmental hazards;
7. Urge the UN Committee on Crime Prevention and Treatment of Offenders to develop appropriate instrumentalities for developing, through its educational and standard-setting programmes, the capabilities of national criminal justice systems to process and punish violations of human rights necessarily entailed in situations of industrial and environmental hazards;

Proposals and Recommendations for Action

8. Urge UNESCO to contribute to greater awareness of these issues through pedagogy and curricula, and to support creative and artistic works which portray the impact of industrial and environmental hazards;
9. Establish by means of an international convention, an Industrial and Environmental Hazards Insurance Agency along the lines of the existing Multilateral Investment Guarantee Agency, under which any enterprise investing in a lesser developed country would be obliged to insure against possible damages from industrial and environmental hazards, and which would apply to all projects financed by the International Bank for Reconstruction and Development, with the additional requirement that all projects insured by the Multilateral Investment Guarantee Agency should be required to assume this additional insurance cover;
10. Establish by means of an international convention, a Permanent Tribunal:
 - Composed of international representative persons of high moral standing, serving in their personal capacity,
 - With jurisdiction on disputes relating to damage due to hazardous activities, empowered to make final and binding decisions on such disputes,
 - Endowed with a Hazards Fund supported by mandatory deposits made by private investors and governments from which its monetary decisions should be satisfied, and
 - With jurisdiction over international criminal charges in cases of industrial and environmental hazards.
11. Revise the Statute of International Court of Justice to ensure standing to individuals complaining of the violation of international law by states, including victims of major industrial and environmental disasters.

Recognising that intergovernmental regional organisations have a critical role to play in enhancing the culture of fundamental freedoms and human rights and their protection and promotion by regional collaborative efforts, the Tribunal urges such organisations, including ANCOM, ASEAN, CARICOM, ECAFE, ECA, ECLA, ECOWAS, EC, and SAARC to evolve appropriate instruments for

regulating hazardous activities, enhance measures for the realization of the right to justice of victims of hazardous industries, and provide victims of such hazards with access to inter-regional adjudication mechanisms.

RECOMMENDATIONS TO PEOPLES' ORGANIZATIONS AND MOVEMENTS

Given the frequent failure of national and international institutions to address industrial and environmental hazards, there is an urgent need for a more effective response from peoples cooperating, through local, national, and international channels.

1. Recognising that the inter-governmental nature of UN specialised agencies limits their autonomy and inhibits their effectiveness, the Tribunal visualises the emergence of transnational institutions and networks which would act in accordance with the Universal Declaration of the Rights of Peoples. Just as the Permanent Peoples' Tribunal attempts to provide a forum for justice where official institutions are inadequate, so too people's institutions analogous to the World Health Organization and the International Labour Organisation should be established to provide information, assistance, and technical support with a view to preventing and mitigating the human rights abuses associated with industrial and environmental hazards.
2. In the face of a large disaster such as Bhopal, the traditional suspicion of government corruption and corporate fraud is intensified. At the same time the sheer volume of human suffering and technical problems may overwhelm local capacities to respond. For these reasons, there is an urgent need for an outside neutral mediating group with medical, scientific, legal, human rights, and emergency-response expertise. The Tribunal welcomes the proposal to establish a 'Green Cross' organisation to facilitate immediate relief, ongoing cooperative healing of victims, and technical assistance to support medical surveys, litigation, and community response. This in no way condones the irresponsible planning which sets up high probabilities of such disasters occurring.
3. In recognition of the symbolic importance of Bhopal as the site of the world's worst industrial disaster, and as a means of giving practical

Proposals and Recommendations for Action

assistance to workers and communities exposed to serious risk from industrial and environmental hazards, the Tribunal urges the formation of an International Centre for Research, Information Exchange and Analytical Services on Industrial and Environmental Hazards, in Bhopal.

4. Professional associations, including those of lawyers, engineers, and medical doctors should institute programmes to debate actively, among themselves, the ethics of representing powerful institutions against weaker victims. Ideally, a code of ethics sensitive to human and peoples' rights should be adopted in each case. Professional associations should lend assistance to peoples' movements in a systematic way.
5. Since governments are often unwilling or unable to impose effective sanctions upon companies and agencies guilty of causing human suffering and environmental damage, peoples' organisations should consider ways and means of developing 'peoples' sanctions' against offenders. Sanctions may include devices such as boycotts of consumer products, demonstrations and media campaigns, or disinvestment. Efforts should be taken to elaborate and organise proposals for people's sanctions.

TOWARDS AN AGENDA FOR THE FOURTH SESSION

At the fourth and final session of the Permanent Peoples' Tribunal on Industrial and Environmental Hazards and Human Rights, the development of themes and issues in this session will need to be carried forward. Additionally, there are topics which require further exploration. Accordingly, the Tribunal mandates the Secretary-General to :

- a. Constitute a working group to develop and expand a Charter of Rights and Responsibilities relating to Industrial and Environmental Hazards to be presented to the fourth session of the Tribunal.
- b. Commission regional and problem-oriented reports, tailored to provide necessary information in a comprehensive and concise format, including information on :
 - Industrial and environmental hazards in Latin America, Africa and Eastern Europe;

Findings and Judgements of the Third Session of the PPT

- A re-examination of the policies of the IMF and IBRD promoting industrial hazards;
- An examination of the rights violations specific to women, especially involving harassment, economic exploitation, and routine exposure to hazardous products and processes;
- The new and largely unexplored hazards of genetic engineering and bio-technology;
- The specific hazards associated with nuclear materials, including:
i) Production, ii) Accidents, iii) Waste, iv) Decommissioning, v) Consumption;
- Investigation of models, alternatives, and existing best practices regarding institutions for disaster management and the provision of relief,
- A comparative analysis of existing legal arrangements for hazard prevention and mitigation, with a view to arriving at generalised legal recommendations.

Appendix

JUDGES

Justice K.M. Subhan

Kazi House
222, Mali Bagh
Dhaka 1217
BANGLADESH.
Tel : 00880-2-401721.

Dr. Rosalie Bertell

International Institute of Concern
for Public Health
830, Bathurst Street
Toronto, Ontario
CANADA.
M5R 361
Tel : 001-416-533-7351
Fax : 416-533-7871.

Prof. Andrea Giardina

Largo Del
Teatro
Valle 6
00186, Roma
ITALY.
Tel : 0039-6-844-3438
0039-6-689-6040
Fax : 0039-6-686-4800.

Dr. Syed Husin Ali

33, Jalan
22/44, 46300
Petaling Jaya
Selangor
MALAYSIA.
Tel : 0060-37769149
Fax : 00603-772087.

Prof. Hettigamage Sriyananda

37, Kandawatte Lane
Nugegoda
SRI LANKA:
Tel : 553615, 556201.

Mr. Augusto S. Sanchez

5th Floor
Evekal Building
Pasay Road
Makati
Metro-Manila
PHILIPPINES.
Fax : 0063-2-817-3314.

Mr. Kuo Chi-Jen

C/o Ching-Jen Labor Health & Safety
Service
#2, Ta-Li Street
Lane 175
Taipei
TAIWAN.
Tel : 0088-6-2-302-8826
Fax : 0088-6-2-302-8826

Dr. M.M. Thomas

Malyakal
P.O. Manjadi
Thiruvalla
Kerala - 689 105
INDIA.
Tel : 04736-21359

Prof. A.R. Desai

Jai Kutir
Taikalwadi Road
P.O. Mahim
Bombay - 400 016
INDIA.
Tel : 022-4305853.

Mr. Ajit Roy

BB-13D, Bidhan Nagar
Sector-1
Calcutta - 700 064
INDIA.
Tel : 033-371077

AMICUS CURIAE

Dr. Giani Tognoni

(Secretary General of the PPT, Rome)
Laboratory of Clinical Pharmacology
Institute M Negri
Via Eritrea 62
20157 Milano
ITALY.
Tel : 0039-2-390-141
Fax : 0039-2-33-2000-49.

Mr. Michael Anderson

Dept. of Law
School of Oriental & African Studies
Thornhaugh Street, Russell Square
London, WCIH
OXG
UNITED KINGDOM.
Tel : 0044-71-637-2388
Fax : 0044-71-436-3844.

Prof. Upendra Baxi

32, Chhatra Marg
Delhi University Campus
Delhi University
New Delhi - 110 007
INDIA.
Tel : 011-7257378
011-7257049
011-7257011
Fax : 011-6886427.

Prof. Ward Morehouse

Suite 3C
777, UN Plaza
NY 10017
New York
U.S.A.
Tel : 001-212-972-9877
Fax : 001-212-972-9878.

PREPARATORY COMMITTEE MEMBERS

Ms. Tong Ka-Weng

ARENA A-4, G-BL.
2/F, Hung Hom Bay Centre
104-108 Baker Street, Hung Hom
Kowloon
HONG KONG.
Tel : 00852-333-7737
Fax : 00852-362-1847.

Mr. Noel Villalba

DAGA
57, Peking Road
5th Floor
Kowloon
HONG KONG.
Tel : 00852-3-68-2187
Fax : 00852-3-699-895.

Appendix

ADVISORY COMMITTEE MEMBERS

Dr. Tan Ka Kheng
Churchill College, Cambridge
CB 30DS
UNITED KINGDOM.
Tel : 0044-223-334793
Fax : 0044-223-334796.

Dr. K. Zaki Hasan
35-G/VI, PECHS, Karachi
PAKISTAN.
Tel : 0092-21-446-859
Fax : 0092-21-6647-966.

Mr. Alamsyah Hamdani
C/o Tati Krisnawati
Solidaritas Permpuan
JLN TUTL IX/594, Pondok
Bambu Kav, Jakarta 13430
INDONESIA.
Tel : 0062-21-861-7643
Fax : 0062-21-861-2198.

Mr. Tani Yoichi
3627-39, Tsuji Tunagi
Ashikita, Kumamoto
JAPAN.
Tel : 0081-966-78-4127
Fax : 0081-966-78-4173.

Mr. Jose Mencio Molintas
45 P, Urduja Street
Camdas, Baguio City
PHILIPPINES.
Tel : 0063-442-47-86.

Dr. Vandana Shiva
A-60, Hauz Khas
New Delhi - 110 016.
INDIA.
Tel : 011-665003
011-657434.

Prof. Satish Dhawan,
7/11, Palace Road Cross
Bangalore - 560 020
Karnataka
INDIA.
Tel : 0812-361485.

Ms. Mary Manel Abhayaratne
Director's Res.
Bandaranaike Meml. Intl. Conf. Hall
Bauddhaloka Mawatha
Colombo - 7
SRI LANKA.
Tel : 0094-1-696130
Fax : 0094-1-697420.

Dr. Hoang Throng Quynh
Permanent Secy.,
10-80 Committee Hanoi Medical College
Khuong Thuong, Dong Da Dist.
Hanoi
VIETNAM.
Tel : 0084-42-63514
Fax : 0084-42-63514.

Mr. Park Seok Woon
238-402
Cholsan Chu Kong Apt.,
Ha-An-Dong, Kwang Myung-Si
Kyungki-Do
SOUTH KOREA.
Tel : 0082-2-771-4460
Fax : 0082-2-776-8457.

Ms. Shabana Azmi
702, Sagar Samrat
Green Fields, Juhu
Bombay - 400 049
INDIA.
Tel : 022-620 0066
Fax : 022-2046861 (Attn. Ms. Parna Patkar).

Findings and Judgements of the Third Session of the PPT

EXPERTS

Ms. Tsang Yuen Yi

Hong Kong Workers Health Centre
Unit 1-3
G/F Cheong Him House
Nam Cheong Est
Sham Shui P.O.
Kowloon
HONG KONG.
Tel : 00852-725-3996
Fax : 00852-728-6968.

Mr. Harada Masazumi

1780-6
Nagamine
Kumamoto
JAPAN.
Tel : 0081-966-380-7017.

Dr. Dinesh Mohan

Dept. of Bio-Medical Engg.
I.I.T.
New Delhi - 110 016
INDIA.
Tel : 654190, 6433910.

Dr. Yang Gil-Seong

Sungsu Clinic
22-5 Kyung-Dong Building
Sung-Su I Ka
Sung-Dong Ku
Seoul
SOUTH KOREA.

Dr. Orapun Metadilokkul

C/o Centre for Labour Information Service
& Training
121/72, Soi Chalermkla
Phyathai Road
Ratchatawee
Bangkok 10400
THAILAND.

Dr. June Margaret Magdalen Luhuli

C/o Tati Krisnawati
Solidaritas Perempuan
JLN TUTL IX/594
Pondok
Bambu Kav
Jakarta 13430
INDONESIA.
Tel : 062-21-861-7643
Fax : 062-21-861-2198.

Dr. Nicole Tilman

C/o Ching-Jen Labour Health & Safety
Service
#2, Ta-Li Street, Lane 175
Taipei
TAIWAN.

Dr. Vu Tanh

Director
Song Be Health Service
Tau Dau Mot City
Song Be Province
VIETNAM.
Tel : 0084-42-2685
0084-42-2639
0084-42-2339 (R).

Mr. Pramode Mujumdar

Bhargar Society
Malaviya Path
Ramnagar
Dombivili (E)
Thane - 421 201
INDIA.

Mr. Mihir Desai

Engineers House
36, Apollo Street
Bombay - 400 023
INDIA.

Appendix

Dr. Murlidhar V.

Surgeon
T/66/12, Old Barracks
LTMGH Staff Quarters
Behind Little Angels School
SION, Bombay - 400 022
INDIA.

Dr. (Mrs.) Veena

T/66/12, Old Barracks
LTMGH Staff Quarters
Behind Little Angels School
SION
Bombay - 400 022
INDIA.

INTERPRETORS

Mr. Wong Yue Chung

C/o, ARIAV
57, Peking Road
3/F TSIM Sha
TSUI, Kowloon
HONG KONG.

Tel : 00852-7390836
Fax : 00852-724-5098.

Ms. Chai Un-Ha

107-12, Myunmokdong
Choongrang-Ku
Seoul
SOUTH KOREA.
Tel : 0082-2-433-5989

Ms. Jacqueline K. Carino

III, Upper General Luna Road
Baguio City
PHILIPPINES.
Tel 0063-442-22-58.

Mr. Ronnie Pereira

C/o. Institute for Occupational Health and
Safety
17, Barracks Lane
Colombo - 2
SRI LANKA.
Tel : 0094-1-24053
0094-1-449391
Fax : 0094-1-695902.

VICTIMS

Mr. Ng Man Kang

C/o. ARIAV
57, Peking Road
3/F TSIM Sha, TSUI
Kowloon
HONG KONG.
Tel : 00852-7390836
Fax : 00852-724-5098.

Mr. Sakamoto Teruki

351-2 Detuki Fukuro
Minamata, Kumamoto
JAPAN
Tel : 0081-966-62-192.

Mr. Lee Jeong-Jae

213-16
Chong Damdong
Kangnam-Ku
Seoul
SOUTH KOREA.
Tel : 0082-2-517-0834.

Mr. Eduard P. Mangile

United Concerned Citizens of UCAB (UCCU)
Barangay
UCAB
Itogon Province of Benguet
PHILIPPINES.

Findings and Judgements of the Third Session of the PPT

Mr. Ismail Effendi

C/o. Tati Krisnawat
Solidaritas Perempuan
JLN TUTL IX/594, Pondok
Bambu Kav
Jakarta 13430
INDONESIA.
Tel : 062-21-861-7643
Fax : 0062-21-861-2198.

Mr. S.K. George Jeyarathnam

C/o. Instt. for Occupational Health &
Safety
17, Barracks Lane
Colombo - 2
SRI LANKA.
Tel : 0094-1-24053
0094-1-449391
Fax : 0094-1-695902.

Mr. Abdul Jabbar Khan

Bhopal Gas Peedit Mahila Udyog
Sangathan
51, Rajendra Nagar
Bhopal - 462 101
INDIA.

Ms. Sadhana Karnik

Zahreeli Gas Kand Sangharsh Morcha
RBI/119/G, West Railway Colony
Bhopal,
INDIA.

Mr. Kaitaew Karun

C/o. Dr. Orapun Metadilogkul
Center for labor Information Service &
Training
121/72, SOI Chalermkla
Phyathai Road
Ratchatawee
Bangkok 10400
THAILAND.

Ms. Prayoon Sriarun

C/o. Dr. Orapun Metadilogkul
Center for labor Information Servi
Training
121/72, SOI Chalermkla
Phyathai Road
Ratchatawee
Bangkok 10400
THAILAND.

Mr. Chen Chi-Liang

C/o. Ching-Jen Labor Health & S
Service
#2, Ta-Li Street
Lane 175, Taipei
TAIWAN.
Tel : 0088-6-2-302-8826
Fax : 0088-6-2-302-8826.

Mr. Bhailal Motibhai Patel

31, Anand Nagar
Baroda
INDIA.

Mr. Yau-Chung Chang

C/o. Ching-Jen Labor Health & S
Service
#2, Ta-Li Street
Lane 175, Taipei
TAIWAN.
Tel : 0088-6-2-302-8826
Fax : 0088-6-2-302-8826.

Ms. Diane Wilson

Calhoun County Resource Watch
Rt. 1 Box 453
Seadrift
Tx 77983
U.S.A.
Tel : 512/785-2364 (R)
512/785-2321
Fax : 512/785-2208.

Appendix

Ms. Mac Thi Hoa
C/o. Dr. Hong Throng Quynh
Permanent Secy.
10-80 Committee Hanoi Medical College
Khuong Thuong, Dong Da Dist.
Hanoi
VIETNAM.

Ms. Rashida Bi
Bhopal Gas Pedit Mahila Stationery
Karmachari Sangh
C/o. Mrs. Champa Devi Shukla
Rishaldar Colony, Chhola Naka
Bhopal
INDIA.

Mr. Sunil Kumar Rajput
Children Against Carbide
H. No. 252/3 (Opp. Union Carbide Factory)
Jai Prakash Nagar
Bhopal, India.

Ms. Krishna Srivastav
Bhopal Gas Peedit Mahila Udyog
Congress
C/o. Mrs. Rabia Sultan
Chowki Imambara, Saifia College Road
Bhopal
INDIA.

Ms. Shamshad Bi
Zahreeli Gas Kand Sangharsh Morcha
RBI/119/G, West Railway Colony
Bhopal
INDIA.

Ms. Safia Bi
Zahreeli Gas Kand Sangharsh Morcha
RBI/119/G, West Railway Colony
Bhopal
INDIA.

Ms. Fatima Bi
Nirashrit Pension Bhogi Sangharsh Morcha
C/o. Mr. Balakrishna Namdeo
H.No. 154
Kumharpura
(Opp. Vidhan Sabha)
Bhopal,
INDIA.

Mr. T.R. Chouhan
Ex-Employee
Union Carbide India Limited
House Number 11,
Gali Number 1
Ret Ghat
Bhopal
INDIA.

OBSERVORS

Mr. Wong Kai Shing
International Affairs Department
57, Peking Road
4th Floor
Kowloon
HONG KONG.
Tel : 7219673
Fax : 3699885

Mr. Shek Ping Kwan
C/o. Hong Kong Trade Union Education Centre,
101, Portland St. 2/F,
Yaumati
Kowloon
HONG KONG.
Tel : 00852-770-8668
Fax : 00852-770-7388.

Findings and Judgements of the Third Session of the PPT

Ms. Ruth Waterman

Valkenboskade

213

2563 HB, Den Haag

HOLLAND.

Tel : 0031-70-36--0791.

Mr. Pierantano Castello

C/o. Dr. Gianni Tognoni

Laboratory of Clinical Pharmacology

Institute M Negri

Via Eritrea 62

20157 Milano

ITALY.

SECRETARIAT

Ms. Teresa Lam

DAGA

57, Peking Road

5th Floor

Kowloon

HONG KONG.

Tel : 00852-3-68-2187

Fax : 00852-3-699-895.

INDIA SECRETARIAT

Mr. Dunu Roy

117, Uttarkhand

Jawaharlal Nehru University

New Delhi - 110 067

INDIA.

Tel : 011-616532, 693744.

Mr. Tapan K. Bose

C-6/9,

Safdarjung Development Area

New Delhi-110 016

INDIA.

Tel : 011-6867694.

Mr. Raju Damle

F-20, (G.F.)

Jangpura Extension, Near Eros Theatre

New Delhi - 110 014

INDIA.

Tel : 011-4624874, 4624874.

Mr. E. Deenadayalan

K-14, (F.F.)

Green Park Extension

New Delhi - 110 016

INDIA.

Tel : 011-6863830, 2250903

Fax : 011-4624874.

Mr. N.D. Jaiprakash

BGPSSS, DSF, B-1

LSC 2nd Floor

J-Block Market, Saket

New Delhi - 110 017

INDIA.

Tel : 011-6896197, 665036, 6862716.

Mr. Satinath Sarangi

E-1 Lajpat Nagar-III

New Delhi - 110 024

INDIA.

Tel : 011-6863830, 2250903

Fax : 011-4624874.

Appendix

INDIAN SECRETARIAT (STAFF)

Mr. A. Rubin

C/o India Secretariat
Permanent Peoples' Tribunal
K-14, (F.F.)
Green Park Extension
New Delhi - 110 016
INDIA.
Tel : 011-6863830.

Ms. Sunita

C/o. Centre for Edn. and Commn.
F-20 (G.F.)
Jangpura Extension, Near Eros Cinema
New Delhi - 110 014
INDIA.
Tel : 011-4624874
Fax : 011-4624874.

Ms. Anita Poovathingal

C/o India Secretariat
Permanent Peoples' Tribunal
K-14, (F.F.)
Green Park Extension
New Delhi - 110 016
India.
Tel : 011-6863830.

Mr. Vamadevan

C/o. Centre for Edn. and Commn.
F-20 (G.F.)
Jangpura Extension, Near Eros Cinema
New Delhi - 110 014
INDIA.
Tel : 011-4624874
Fax : 011-4624874.

Mr. B.R. Sastha

C/o India Secretariat
Permanent Peoples' Tribunal
K-14, (F.F.)
Green Park Extension
New Delhi - 110 016
INDIA.
Tel : 011-6863830.

Mr. Shekar B.

C/o. Centre for Edn. and Commn.
F-20 (G.F.)
Jangpura Extension, Near Eros Cinema
New Delhi - 110 014
INDIA.
Tel : 011-4624874
Fax : 011-4624874.

VOLUNTEERS

Ms. Vani Subramanian

E-1, Lajpat Nagar-III
New Delhi - 110 024
INDIA.
Tel : 011-6445984, 6447851.

Ms. Gurpreet Sidhu

People Tree
8, Regal Building, Parliament Street
New Delhi - 110 001
INDIA.

Ms. Vidya

SMILE, C/o IGSSS
28, Institutional Area, Lodhi Road
New Delhi - 110 003
INDIA.
Tel : 692192, 692193.

Ms. Vipla

C/o. Ms. Vidya
SMILE, C/o IGSSS
28, Institutional Area, Lodhi Road
New Delhi - 110 003
INDIA.

Findings and Judgements of the Third Session of the PPT

Ms. Sushumita

C/o Vidya

SMILE

C/o. IGSSS

28, Institutional Area

Lodhi Road

New Delhi - 110 003

INDIA.

Ms. Anjali Deshpande

199, Pandara Road

New Delhi - 110 001

INDIA.

Mr. Atul Gupta

AB-103, SFS Flats

Saket, New Delhi - 110 017

INDIA.

Mr. Sunil

C/o Ms. Vidya

SMILE

C/o. IGSSS

28, Institutional Area

Lodhi Road

New Delhi - 110 003

INDIA.

Tel : 692192, 692193.

Mr. Pranab Mukerjee

308, Kaveri Hostel

Jawaharlal Nehru University

New Delhi 110 016

INDIA.

LOCAL ORGANISING COMMITTEE - BHOPAL

Mr. L.S. Hardenia

Convenor

Local Organising Committee

E-4, 45 Bungalows

Bhopal - 462 001

INDIA.

Dr. Ajay Khare

MPVS, Zone-II

Maharanapratap Nagar

Bhopal

INDIA.

Mr. Arun Singh

C/o. EKLAVYA

E-1/208, Arera Colony

Bhopal-462 016

INDIA.

Tel : 563380.

Mr. Shahnawaz

Advocate

Aish Bagh Stadium

Bhopal

INDIA.

Mr. Subhir Shukla

C/o. EKLAVYA

E-1/208, Arera Colony

Bhopal-462 016

INDIA.

Tel : 563380.

Appendix

LOCAL ORGANISING COMMITTEE - BOMBAY

Mr. Arun Subramaniam

403, Silver Sands
Yari Road, Versova
Bombay - 400 061
India.

Dr. Sandeep Pendse

Vikas Adhyayan Kendra
D-1, Shivdham
62 Link Road
Malad (West)
Bombay - 400 064
INDIA.
Tel. : 022-682 2850
Fax : 022-642 2110.

Mr. Mani Mistry

YUVA
53/2, Narepark Municipal School
Opp. Nare Park Ground
Parel
Bombay-400 012
INDIA.
Tel : 022-414 3498.

